

A Review of New Brunswick Agricultural
Commissions and Marketing Boards

REPORT I

A REVIEW OF THE STRUCTURE, POWERS AND
ROLE OF NEW BRUNSWICK AGRICULTURAL COMMISSIONS

Presented By

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November 1984



Farm Products Marketing Commission
La Commission de Commercialisation des Produits Agricoles



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13 November, 1984

Hon. Malcolm N. MacLeod,
Minister of Agriculture and
Rural Development,
Fredericton, N. B.

Dear Mr. Minister:

I am pleased to submit two reports on the review of agricultural commissions and marketing boards.

This review was initiated by Order-in-Council 82-993, dated December 9, 1982. The Terms of Reference were worked out in more detail in consultation with you.

I wish to extend my sincere appreciation for the important contributions made by many individuals and organizations whose names are recorded in the report. I also want to express my special thanks to you and your Department for valuable assistance and co-operation in carrying out this review.

Respectfully submitted,

H. RAYMOND SCOVIL
CHAIRMAN

PREFACE

It was originally intended that the "Review of New Brunswick Agricultural Commissions and Marketing Boards" be published as a single report. However, as the material came together towards the end of the study, it became apparent that this would be a large document, parts of which would not be of interest to all readers. It was therefore decided to publish the review and recommendations in two reports, as follows;

Report 1: A Review of the Structure, Powers and Role of
New Brunswick Agricultural Commissions

Report 2: A Review of the Structure, Powers and Role of
New Brunswick Agricultural Marketing Boards.

By taking this approach, it is hoped that the contents will be more manageable and that this will enable organizations and individuals to select the report that applies to their particular area of interest.

ACKNOWLEDGEMENTS

The review was conducted through extensive consultation with many people and organizations. In Appendix II are listed the names of persons and organizations who provided valuable assistance either through the presentation of briefs or by personal interview. In addition, a number of consultants were engaged to prepare individual reports or papers and to conduct research relating to government agricultural commissions as well as agricultural commodity marketing boards.

Excellent co-operation was received from many persons and officials with the New Brunswick Department of Agriculture as well as several other Departments of the Federal and Provincial Governments.

We wish to extend special thanks to staff and members of the New Brunswick Farm Products Marketing Commission, the New Brunswick Dairy Products Commission, the New Brunswick Crop Insurance Commission, the New Brunswick Grain Commission, the National Farm Products Marketing Council and the Canadian Dairy Commission.

In addition, special thanks are due to D. J. Bettson, Agricultural Consultant, who not only wrote approximately half the overall report but also compiled and edited both volumes.

ORDER-IN-COUNCIL AND TERMS OF REFERENCE

Order-in-Council Number 82-993, dated December 9, 1982, states:

"Under Section 2 of the Farm Products Marketing Act, H. Raymond Scovil is appointed..., effective January 3, 1983, as Chairman of the Farm Products Marketing Commission with special responsibilities for new programs for boards and commissions that report to the Minister of Agriculture and Rural Development."

The terms of reference for the review were provided by the Minister of Agriculture, Hon. Malcolm N. MacLeod.

1. To review the existing supervisory role of the Government of New Brunswick in respect to the marketing of farm products.
2. To review the existing legislation respecting the New Brunswick Farm Products Marketing Commission, the New Brunswick Dairy Products Commission, the New Brunswick Crop Insurance Commission and the New Brunswick Grain Commission.
3. To make recommendations on how the supervisory role of the Government of New Brunswick, in respect to marketing farm products, can be improved and strengthened.

PRINCIPAL CONCLUSIONS AND RECOMMENDATIONS

I. Principal Conclusions

1.1 Farm Products Marketing Commission:

1. Since 1972, there has been rapid development and expansion of agricultural marketing boards and agencies in the Province.
2. Since 1977, it has become increasingly apparent that government has an essential role to play in supervising the operation of marketing boards and agencies within the intent of the legislation, and for providing adjudication services to participants in the system.
3. The structure under which the Commission was established has placed severe limitations on its ability to effectively handle its expanding role and to deal with increasingly complex market circumstances.
4. The close linkage between the Commission and the Department of Agriculture infers a bias in the Commission's activities. This is contrary to the role of the Commission which is to provide impartial supervision and regulation for all parties in the marketing system.
5. The Commission, until recent time, had no research or analytical capability which has handicapped its ability to provide adequate support services to the commodity marketing boards.
6. The Commission, due to the lack of a secretariat and, until 1983, a full-time chairman, has had to react to events rather than play a leadership role in the evolution of organized marketing systems.
7. As a government agency, the Commission should not be directly involved in the pricing of commodities.
8. The present structure and organization of the Commission is unsatisfactory and inadequate to enable it to fulfill its intended functions.

1.2 Dairy Products Commission

1. It is apparent that the Commission has been conducting its responsibilities with efficiency, expediency and impartiality.
2. There are definite areas where improvements can be effected in the control and supervision of the marketing of milk and dairy products.
3. The Commission does not have control over milk quality from delivery at plant to purchase by the consumer. The result is poorer quality at the retail level than is necessary.
4. The Commission has no authority over the processing and quality of manufactured dairy products. While some duties in this respect are conducted by staff of the Commission, as employees of the Department of Agriculture, the situation leaves a "no mans land" area of responsibility.
5. There is some duplication and ambiguity in the Dairy Products Act and the Dairy Industry Act, and the latter is many years out of date. This results in the jurisdiction and responsibilities of the Commission not being at all clear in some matters.
6. The Commission involves itself in considerable detail on a number of subjects which would be better dealt with at an administrative level. Examples can be found with quality control, licensing and dealer/vendor matters.
7. The Commission has devoted little time to Federal matters and the provincial position within the national dairy system. This should have been of particular significance since 1981, when there was no longer any surplus Market Sharing Quota in the Province.
8. The role of the Commission has substantially changed over the past decade, largely because of the establishment of the New Brunswick Milk Marketing Board, and there is a need to adjust the thrust of its activities.
9. There is a definite need for a major overhaul of the dairy legislation; not just to update and clarify the existing acts, but to consolidate the legislation under either the Dairy Products Act or the Dairy Industry Act and repeal the other.

10. Due to the dormant state of the Cream Producers Marketing Board, it is desirable to dissolve the organization and place its affairs under the jurisdiction of the Milk Marketing Board but with the establishment of a "Cream Advisory Committee".

1.3 Crop Insurance Commission

1. The insurance plans and policies of the Commission have now been established on an effective basis as witnessed by the considerable growth in insurance coverage over the past four years.
 2. The development of additional and improved insurance plans is presently handicapped by the inability of the Commission to respond to the demands of the Federal Crop Insurance Division due to lack of adequate resources.
 3. The volume of business conducted by the Commission has grown from less than one-half million to nearly twenty-two million dollars coverage over five years.
 4. The growth has revealed that the present organization of the Commission as a Section within a line Branch of the Department of Agriculture is inappropriate for the efficient conduct of a business operation.
 5. A review of other Crop Insurance Commissions in the country reveals that all but one operate as relatively independent units whose major features are that:
 - a) they report directly to the Minister;
 - b) they conduct their financial dealings through a separate bank fund which is not part of the Consolidated Fund.
- Appropriate amendments to current regulations would enable the Commission to deal more effectively with the staffing, budgetary, and financial transaction problems;
7. The expanded role visualized for the Commission requires at least two additional members and a Chairman who can devote considerably more time to Commission affairs than has been the case in the past.

1.4 Grain Commission

1. Considering the short period of operation (3 years) and the limited resources placed at its disposal, the Commission has made as much progress as could be expected of it.
2. The purpose of the Grain Commission is very different from that of other commissions in that its major role, at this stage, is developmental and not regulatory.
3. The foremost problem confronting the Commission is the lack of a clear definition of its functions in relation to those of the Department of Agriculture.
4. In order to clearly define the roles and responsibilities of the Commission and the Department of Agriculture, it will first be necessary to have an agreed provincial grains policy.

1.5 Role and Responsibilities of the Minister of Agriculture and the Department of Agriculture

1. The Minister's role has been one of developing policies and plans in co-operation with producers, processors, dealers, shippers, etc., and recommending them for approval by the Lieutenant-Governor in Council under the following Acts: the Dairy Products Act, Farm Products Marketing Act, Grains Act and the New Brunswick Crop Insurance Act.
2. The Department of Agriculture has provided the budget and staff resources required by the Agricultural Commissions.
3. Although the Agricultural Commissions report directly to the Minister of Agriculture and meet as separate entities to make decisions as required by the Legislation, the actual implementation of these decisions is a responsibility of the staff of the Market Organization and Inspection Branch of the Department.

II Review Recommendations

2.1 Farm Products Marketing Commission

1. It is recommended that the structure of the Commission be changed to enable it to effectively carry out its expanded duties and responsibilities.
2. It is recommended that the Commission should not be directly involved in the pricing of commodities, but that an independent appeal system be introduced.
3. It is recommended that the Commission should develop common principles and criteria for pricing and quota management for application to all commodity marketing plans. (Detailed recommendations are provided in Report II.)
4. It is recommended that the Government should place greater emphasis on promoting New Brunswick interests at the national level.
5. It is recommended that the Commission (and the other commissions) be provided with a common secretariat made up of existing staff and that this be supplemented through use of private sector resources when necessary.
6. It is recommended that the Commission be provided with a budget which is independent from that of the Department of Agriculture.

2.2 Dairy Products Commission

1. Because of the changes in the structure of the dairy industry over the past decade, the following recommendations are made:
 - a) transfer responsibility for what have now become routine matters to an administrative jurisdiction, i.e. the Department of Agriculture;
 - b) place greater emphasis on New Brunswick interests at the national level;

- c) place responsibility for milk quality from the cow through to the consumer under the jurisdiction of the Department of Agriculture;
 - d) undertake a major overhaul of the dairy legislation to consolidate this under either the Dairy Products Act or the Dairy Industry Act.
2. It is recommended that the Cream Producers Marketing Board be disbanded and that its affairs be made a responsibility of the Milk Marketing Board with the establishment of a "Cream Advisory Committee" representative of the interests of cream producers.

2.3 Desirability of Amalgamating the Dairy Products Commission with the Farm Products Marketing Commission.

1. It is recommended that the Dairy Products Commission be amalgamated with the Farm Products Marketing Commission to create one Commission in order to serve the best interests of the Agricultural Industry and the Government of New Brunswick.
2. It is recommended that the strengthened Farm Products Marketing Commission so created, be provided with a secretariat that has adequate research and analytical capability to enable the Commission to effectively present and negotiate New Brunswick interests at the Federal level and to provide the support services essential to the efficient management of New Brunswick agricultural marketing boards.
3. It is recommended that the strengthened Farm Products Marketing Commission be an independent administration under the direction of a chairman, with Deputy Minister status, directly responsible to the Minister of Agriculture.
4. It is recommended that the Dairy Products Act be repealed and that amendments to the Farm Products Marketing Act be enacted to include therein powers necessary to regulate the Dairy Industry.

5. It is recommended that the Dairy Industry Act be re-written to both update the existing content and to include all powers presently under the Dairy Products Act in regard to control of the quality of milk and dairy products, for the purpose of placing full responsibility for these functions under the jurisdiction of the Department of Agriculture and Rural Development.

2.4 Reorganization of the Farm Products Marketing Commission

1. It is recommended that the re-organized Farm Products Marketing Commission be responsible for the administration and supervision of all agricultural marketing boards and agencies and related regulation and legislation in the Province.
2. It is recommended that due to the amalgamation of the Dairy Products Commission and the Farm Products Marketing Commission, there be two members on the Commission representing milk producers, one of whom will be rotational and the other a full-time, part-time member.
3. It is recommended that the Commission obtain input from the trade, because they are directly affected by decisions taken by boards and agencies, by appointing a rotational representative from the trade.
4. It is recommended that the resulting seven member Commission be established as follows:
 - a) Chairman - full-time
 - b) Two producer representatives; part-time, one to act as Vice-Chairman
 - c) One rotational producer representative
 - d) One consumer representative
 - e) One trade representative (can be rotational)
 - f) One independent
5. It is recommended that the legislation be amended to provide for an independent appeal tribunal to adjudicate disputes between trade and producers.

2.5 Crop Insurance Commission

1. It is recommended that Section 6(1) of Regulation 83-29 under the N.B. Crop Insurance Act be deleted and replaced by a section equivalent to that of Sections 7(1) to (10), Chapter 6 of the Nova Scotia Crop and Livestock Insurance Act (reference Section 5.4.4 of this report.) The purpose is to provide the Commission with a separate fund and bank account.
2. It is recommended that Sub-Section 3(2) of Regulation 83-29 be amended to permit the appointment of a seven member Commission instead of the present five.
3. It is recommended that upon appointment, the Minister detail the duties and responsibilities expected of the Chairman of the Commission.
4. It is recommended that immediate steps be taken to restore the General Manager's role to full-time on behalf of the Commission.

2.6 Grain Commission

1. It is recommended that a provincial grains policy be established with medium and long-term goals.
2. It is recommended that the functions and responsibilities of the Commission, within an agreed grains policy, be clearly defined in relation to those of the Department of Agriculture.
3. It is recommended that, as a starting point for 2. above;
 - a) Responsibility for the groundwork and promotion for introduction of organized marketing lie with the producers in cooperation with the Department. The role of the Commission should only commence once it has received an official request from a group of producers for the introduction of a marketing plan.
 - b) The Department of Agriculture have full responsibility for keeping abreast of and analyzing national policy developments and for the presentation and promotion of New Brunswick interests at this level.
 - c) The Commission exercise no jurisdiction over grain production until such time as production controls are required for specific market circumstances, which is unlikely to occur in the foreseeable future.

2.7 Role and Responsibility of the Minister of Agriculture and the
Department of Agriculture

1. It is recommended that the budget for the Farm Products Marketing Commission be provided directly rather than through a line branch of the Department of Agriculture as is the case at present.

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INTRODUCTION

As stated in the Terms of Reference for the Review, one major objective was to review the supervisory role of Government in respect to the marketing of farm products, and to make recommendations on how the marketing of New Brunswick farm products can be improved and strengthened. Another purpose was to conduct a study of the existing legislative framework respecting the New Brunswick Farm Products Marketing Commission, the New Brunswick Dairy Products Commission, the New Brunswick Crop Insurance Commission and the New Brunswick Grain Commission to determine the suitability of the legislation under present circumstances.

Report I has seven chapters concerning the Government agricultural commissions as well as the role and responsibilities of the Minister of Agriculture and the Department of Agriculture and Rural Development. Report II has three chapters which outline the objectives, functions and organization of regulated agricultural marketing and how these are carried out through the New Brunswick agricultural marketing boards, as well as the National farm products marketing agencies.

Report II is designed to provide a foundation which will enable marketing boards and agencies to strengthen and improve their marketing programs. This report indicates there has been a significant expansion in the number of agricultural marketing boards and agencies in the past ten years. In fact, 80% of the farm cash income (\$180 million annually) in New Brunswick is associated with marketing boards. This includes organizations that are operating under both Federal and Provincial legislation. During the past decade the interest in marketing boards on the part of farmers has greatly increased. This major interest and support for organized marketing has resulted in the establishment of ten agricultural marketing boards or agencies in the Province, as follows:

New Brunswick Apple Marketing Board
New Brunswick Greenhouse Products Marketing Board
New Brunswick Chicken Marketing Board
New Brunswick Cream Marketing Board
New Brunswick Egg Marketing Board
New Brunswick Hog Marketing Board
New Brunswick Milk Marketing Board
New Brunswick Turkey Marketing Board
New Brunswick Potato Agency
New Brunswick Cattle Marketing Agency

On the national level, marketing boards started in Canada in the 1930's. Farmer interest, at that time, developed because they were suffering from very low prices and income, and because a Royal Commission stated that this was partly caused by concentration among processors and other secondary industries. This meant that thousands of farmers were selling products independently without any bargaining power; while, on the other hand, there were few buyers who were able to dictate the terms. As a result, farmers frequently received prices below the cost of production and many went bankrupt.

In order to achieve co-ordination between the provinces on agricultural marketing, the Federal Government enacted the National Farm Products Marketing agencies Act in 1972. This Act gave farmers the authority to set up national marketing programs with powers ranging up to control over both supply and prices (called supply-management) for their commodities.

Three Agencies have been established under this legislation, namely the Canadian Chicken Marketing Agency, the Canadian Egg Marketing Agency and the Canadian Turkey Marketing Agency. Another Federal agency concerned with marketing is the Canadian Dairy Commission, which has responsibility for the supply management program for industrial milk, in co-operation with the provincial

Milk Marketing Boards. In addition, there is a Federal organization known as the Canadian Wheat Board which operates under Federal legislation and is responsible for national grain marketing programs.

The recommendations resulting from this review are intended to assist the New Brunswick Government as well as the boards in solving some of the problems that have been encountered respecting the operation of marketing boards and the management of quota and pricing systems. In addition, some of the recommendations are concerned with clearly defining the role of the Government in relation to the operation of marketing boards through improvements in the existing legislation and regulations.

At the beginning of each of the two reports there is a summary of the conclusions and recommendations; however, for the background and reasons for the recommendations, the reader will need to refer to appropriate chapters in the report.

A REVIEW OF THE PRESENT STRUCTURE, POWERS AND ROLE
OF NEW BRUNSWICK AGRICULTURAL COMMISSIONS

The two major Commissions, the Farm Products Marketing Commission and the Dairy Products Commission, have both been in existence, in one form or another, for nearly fifty years and they perform similar functions; the latter specifically for the dairy industry and the former for all other organized agricultural commodities. While their activities have been reviewed in the past, with appropriate amendments to the legislation, their appropriateness and effectiveness as agencies for the implementation of government policy have not been studied as a specific subject.

The other two Commissions, one for Grain and the other for Crop Insurance, are relative newcomers and perform very different functions: the former of an industry development nature and the latter business oriented. In these cases, the individual programs and activities of each have been examined and adjusted, but they have not been reviewed in terms of their relationship to the other Commissions and general government structure and policy.

The purpose of this report is firstly, to review the background and mode of operation of the Commissions individually to ascertain whether they are effectively fulfilling their intended roles. Secondly, to provide conclusions on the strengths and weaknesses of each and to pinpoint areas where improvements are required. Thirdly, the commonalities between Commissions and the overall intention and role of government, as expressed through the various mandates of the Commissions, are examined leading to final recommendations for improving the supervisory role of government in respect to the marketing of farm products, and operation of the Crop Insurance and Grain Commissions.

NEW BRUNSWICK FARM PRODUCTS MARKETING COMMISSION1.1 Historical Background

The predecessor of the Farm Products Marketing Commission was the Natural Products Control Board which operated under an Act of the same name for forty years. The Board was responsible for fishery, forest and agriculture products. In 1976, it was decided to place fishery products under separate legislation and the act was changed and became the Farm Products Marketing Act (including forest products) on 15 May 1977.

The present Commission was established, therefore, under the authority of this Act and held its first meeting on 16 May 1977. The Commission operated with a part-time chairman (and members) until 3 January 1983, when a full-time chairman with Deputy Minister status was appointed.

1.2 Administrative Structure

The Commission is a body corporate consisting of a chairman, vice-chairman and five members who are appointed by the Lieutenant-Governor in Council to hold office for a term of five years and are eligible for re-appointment. One member represents the Department of Agriculture, one represents the interests of consumers, one is to be actively engaged in the marketing of farm products other than as a producer, and three are to be engaged directly as producers in the marketing of a farm product. Four members constitute a quorum, and a vacancy on the Commission does not impair the right of the remaining members to act.

The activities of the Commission are financed wholly through the Department of Agriculture and Rural Development which also serves as a "Secretariat". The Commission is directly responsible to the Minister of Agriculture.

1.3 Powers Under the Act

Through the powers vested in it, the Commission may:

- 1) investigate, arbitrate, adjudicate upon, adjust or otherwise settle any dispute between producers, processors, distributors or transporters of farm products, or between any two or more of such classes of persons;
- 2) investigate the cost of producing, processing, distributing and transporting any farm product, prices, price spreads, trade practices, methods of financing, management, grading, policies and other matters relating to the marketing of a farm product;
- 3) recommend any marketing plan or the amendment of any plan to the Minister;
- 4) require persons engaged in the production or marketing of a regulated product to register with the Commission or local board;
- 5) require persons engaged in the production or marketing of a regulated product to furnish information relating to the product, including the completing and filing of reports or returns on a periodic basis or otherwise as the Commission or local board determines;
- 6) require the furnishing of security or proof of financial responsibility by any person engaged in the marketing of a regulated product and provide for the administration and disposition of all money or securities so furnished;
- 7) with the approval of the Minister of Justice and subject to such terms and conditions as he imposes, appoint inspectors for the purposes of this Act;
- 8) co-operate with a marketing board, local board, commodity board, marketing commission or marketing agency of Canada or of any province in Canada for the purpose of marketing any regulated product;
- 9) make orders and issue directives consistent with a plan or the regulations as are necessary to enforce the provisions of the act or any plan.

In addition, the Commission has the powers of Commissioners under the Inquiries Act while conducting an investigation pertaining to any agricultural product.

A number of amendments to the Act have been made since 1977, the most significant being the addition of powers to control commodity production in order to provide authority to enforce production quotas as required under the national supply management plans for eggs, chicken and turkey.

In theory, the Commission has absolute power over the Commodity Marketing Boards. Its role is to supervise these boards and to ensure that the powers given to them are used in a way that is compatible with the intent of the law and the best interest of the commodity in question and it may amend or revoke any order, decision or determination of a local board.

1.4 Supervisory Activities and Role of the Farm Products Marketing Commission

A review of the Commission's activities for the five year period 1979 to 1983 was undertaken through analysis of the minutes of meetings, examination of the relevant legislation and discussion with administrative personnel. On average, the Commission meets twelve times a year, and on occasion calls a special meeting or telephone conference.

A breakdown of the significance of individual commodities under Commission business is given in Table 1. As may be seen, fifty two percent of the Commission's deliberations have been in connection with the poultry industry, with an emphasis on chicken marketing (34%), and a further twenty eight percent have been on potato issues. All other commodities, excluding dairy, account for only twenty percent of the Commission's time.

The business dealt with at meetings has been categorized under ten headings, reference Table 2, which are listed in order of significance on the basis of the number of items that arose. These are discussed below with comment on the supervisory and regulatory role of the Commission.

TABLE 1
IMPORTANCE OF COMMODITIES UNDER
COMMISSION BUSINESS

<u>COMMODITY</u>	<u>PERCENTAGE</u>
Chicken	34.3
Potatoes	28.2
Eggs	9.9
Turkeys	7.5
Apples	6.6
Hogs	5.1
Greenhouse	3.3
Other	<u>5.1</u>
	100.0 %

TABLE 2
CATEGORIES OF BUSINESS IN
ORDER OF SIGNIFICANCE

<u>CATEGORY</u>	<u>PERCENTAGE</u>
1. Financial Matters	14.0
2. Complaints, Appeals & Arbitration	12.0
3. Development/Amendment of Marketing Plans	11.5
4. N.B. Marketing Board Matters	11.2
5. Acts, Orders & Legal	10.9
6. Pricing and C.O.P. Formula	9.5
7. National Marketing Board Matters	7.4
8. Quotas, National & Provincial Level	6.0
9. F.P.M.C. Policy and General	4.9
10. Appointments	4.3
Miscellaneous	<u>8.3</u>
	100.0 %

1. Financial Matters:

While at the top of the list, financial matters are largely routine. The main item is approval of borrowing authority for marketing boards, which is a requirement under section 4(5) of the Farm Products Marketing Act, and no case of refusal of such a request has been encountered. But an item of concern in this respect was the large amount of financing required by the Western and North-Western Potato Agencies and subsequently the N.B. Potato Agency, for operation of the Federal advance payments for crops program.

The overall financial position of boards however, has not been regularly monitored by the Commission, although on occasion they have been reminded of the requirement under the regulations to file a copy of their annual accounts. But in 1981, as a result of a letter from the Deputy Minister of Agriculture drawing attention of the Commission to the increasing need for boards to be accountable for their actions, an independent audit of boards was initiated. This took place between October 1981 and June 1982, and while no major problems were identified, the auditor recommended to individual boards some improvement in financial management procedures and the Commission instructed that these be implemented. The only case of careful and regular monitoring of the finances of a marketing board has been with the N.B. Potato Agency. This commenced in 1983 as a result of obvious problems, and is presently on-going.

A further financial matter has been bonding requirements for boards. Legal advice obtained was that bonding is a necessary element of accountability and as a result, the Commission instructed that bonding be applied to all signing officers of boards and agencies.

2. Complaints, Appeals, Hearings, Negotiation, Conciliation and Arbitration:

During the past three years, these matters have taken a considerable amount of the Commission's time and have become an important part of its regulatory and supervisory role. Moreover,

the Commission, with legal advice, has had to develop procedures and gain experience in the handling of such matters.

The predominant and most contentious issue has been conflict between boards and processors over commodity pricing. In the case of chicken and turkeys, this has resulted in frequent complaints and appeals due to the complexity of the market situation, the reliability of the cost of production formula and, in particular, lack of a regular consultative mechanism between the two parties. While boards have authority to establish price advisory committees, and the Chicken Board was requested to do so by the Commission, no action was taken until the Commission took it upon itself to appoint a price advisory committee in February, 1984.

Another major dispute on pricing concerned an attempt by the N.B. Potato Agency to fix a minimum price for non-contracted processing potatoes. In this case the Commission took swift and firm action. A verbal complaint from McCain Foods Ltd. was discussed at a regular meeting on 28 July, 1981, and a written complaint received from Humpty Dumpty Foods Ltd. on 5 August. On 10 August, the Commission held a telephone conference and a motion was passed, in accordance with Section 3(8) of the Farm Products Marketing Act, amending the N.B. Potato Agency order 81-4 to exempt potatoes purchased by the two companies, until such time as the Commission had an opportunity to hear and settle the dispute. The hearing was conducted on 21 August, and on the same day the Commission upheld its previous ruling effectively preventing the Agency from fixing a minimum price for this category of potato. This is the only case between 1979 to 1983, when a marketing board order was, in effect, revoked by the Commission.

However, apart from the above specific issue, the pricing of potatoes for processing, both fries and chips, has operated without complaint due to the existence of price negotiation committees for this purpose. The Commission has approved appointments to these committees, monitored the negotiations, and when agreement could not be reached, appointed conciliators, and

in two cases an arbitrator. This is an appropriate procedure that works well, and it is difficult to understand why the same principals were not enforced for the poultry meat industry.

A further subject that has been cause of on-going complaint and appeal, again basically by a processor but in conjunction with the producers supplying the plant, is the allocation of chicken quota by the N.B. Chicken Marketing Board. The Commission has spent considerable time and patience on this issue and in 1981, a lengthy hearing was conducted which resolved the immediate controversy over application of regulations in regard to establishment of the National Chicken Marketing Plan. This problem was re-examined by an independent task force appointed by the Minister of Agriculture in March 1984. The task force made a number of recommendations to solve this problem, and several of these recommendations have been implemented, the major one being the restructuring of the N.B. Chicken Marketing Board and a change in the quota allocation.

Other items dealt with have been relatively minor, such as producer appeals against quota allocation or imposition of penalties, complaint from an out-of-province company over a board's regulations concerning sale of product in New Brunswick, and a processor complaint in regard to producer sale of product outside the province and breaking of a contract.

3. Development and Amendment of Marketing Plans:

This area of business is an important part of the role of the Commission. The basic groundwork and promotion for introduction of organized marketing for a commodity is conducted by producers themselves with assistance from the Department of Agriculture. However, once an official request for a marketing plan has been presented to the Commission, considerable work is involved in developing it to the stage where it can be presented to the Minister and the Lieutenant-Governor in Council for final approval. This input ranges from the conduct of a producer plebiscite to the drafting, amending and translation of proposed legislation, under the requirements of the Farm Products Marketing Act, for approval by the Minister.

Over the past six years, six new marketing plans have been approved as follows: the Western and Northwestern Potato Plans subsequently replaced by the New Brunswick Potato Plan; the Greenhouse Plan (which superceded the Bedding Plant Plan); the Cattle Marketing Plan; and a new Apple Plan. Consideration was also given to the establishment of plans for vegetables, processing peas and sheep, but producers decided against proceeding with these at that time.

In addition, it is necessary for the Commission to consider and approve amendments to plans in order to adjust to changing circumstances or to alter unsatisfactory regulations. This, for example, has covered changes to the number of areas or regions under a plan, representation on the marketing board, provision of additional powers for the control of production and marketing, and simple matters relating to the administration of the organization.

The responsibilities of the Commission in respect to marketing plans have been earnestly conducted. However, in hindsight and in light of recent problems at both national and provincial levels, there are certain weaknesses in most plans which would have been difficult to foresee. This refers particularly to the need for establishing and applying common basic principles to all controlled commodity plans for the management of quota and the pricing of products. It also refers to the need for application of basic criteria in regard to representation on and management of marketing agencies.

4. Provincial Marketing Board Matters:

A wide range of topics are covered under this category which reflects the on-going process of consultation between the Commission and boards at the instigation of either party. These matters are often important to the Commission both from the point of view of exercising supervision of board actions and familiarization with board activities.

Items raised by boards, either in writing or through a meeting, concern approvals, problems and policy for development of the commodity. They generally involve clarification of the

regulations and a board's powers; authority to proceed with certain actions; requests to the Commission to initiate action at either provincial or national levels; requests for approval to seek levy authority on inter-provincial and export trade under the National Agricultural Products Marketing Act; or they may be to obtain the opinion of the Commission on issues prior to developing a firm position.

From the Commission's point of view, a significant aspect of this interaction is in keeping it up-to-date with the general affairs of boards. In this respect, the Commission at times has requested the Secretary/Manager or executive of a board to appear before it to explain the background on issues, or to present a general review of the board's policy and activities. Concern over lack of information and contact with boards has been expressed by commissioners and as a result, in 1983, an attempt was made to formalize a system whereby each agency made an annual presentation to the Commission.

In addition to the above, the Commission also addresses enquiries to boards on matters that have been raised by commissioners or that have been received from other interested parties. This includes items of information on subjects being investigated by the Commission.

5. Acts, Orders and Legal:

The Farm Products Marketing Act is the main piece of provincial legislation dealt with, and this involves interpretation of or amendment to the regulations either for the Commission's own purposes or on behalf of boards in relation to delegated powers. At times, the National Farm Products Marketing Agencies Act also comes under discussion, usually due to the need to assess the effect of amendments being proposed at that level. Other New Brunswick legislation occasionally arising is the Farm Products Grades Act, the Farm Products Boards and Marketing Agencies Act, the Companies Act and the Enquiries Act.

Until early 1979, all board orders had to be prior approved by the Commission as a requirement under the various marketing

plans. However, the practice was ceased and the regulation deleted as a result of legal advice that it would be difficult for the Commission to hear an appeal against an order it had itself approved. Business concerning board orders arises, therefore, only if the Commission is of the opinion that one is either incorrectly drafted or exceeds the board's authority. In such cases, the board is advised to replace or repeal the order. The latter has only occurred in one instance, when a board inadvertently exceeded its powers by appointing inspectors, and the order was repealed and the appointments made by the Commission.

The majority of orders made by the Commission itself concern borrowing authority, others are in regard to bonding, appointment of inspectors and furnishing of information. All other decisions are in the form of motions passed at meetings.

6. Pricing, Cost of Production Formula and Feed Prices:

The Commission has had considerable and on-going involvement in the pricing of chicken and turkeys, and thus cost of production formulae. Frequent complaints and appeals from the processors over the announcement of price increases by boards has required the Commission to carefully examine the price setting mechanisms and practices of the boards and to adjudicate the appeals. This, in effect, has placed the Commission in the position of being the final price setting authority, as it has had to decide whether to uphold or repeal board orders increasing prices.

The situation has arisen primarily due to lack of consultation between the two parties, with fault on both sides, and failure of the Commission, in spite of attempts, to implement satisfactory negotiation procedures.

The pricing of these two commodities is complex. Although both are under supply management plans, the price is dictated by market forces because there is free inter-provincial movement of product and no surplus removal program. Therefore, prices set by boards on the basis of producer cost of production formulae, will

be unsatisfactory to processors if they became or perceive that they will become less competitive in the market place. On the other hand, if producers do not receive a fair return for their efforts, the viability of the provincial industry cannot be sustained over any length of time. Furthermore, neither the two processors nor the producers have entirely common interests because the former are in competition for the markets, and the latter are geographically split into two groups serving different processors.

In order to obtain satisfactory resolution of these divergent views, the Commission should not be directly involved in the pricing process, either as arbitor on the validity of the various components of pricing or for giving the final decision and approval of the price to be implemented. Instead, the Commission should exercise its supervisory role by ensuring that suitable mechanisms and procedures are in place to achieve direct consultation and negotiation between the respective parties and, failing agreement, the provision of independent conciliation and arbitration.

This principle has been successfully applied to the pricing of processing potatoes sold under contract. The only problem encountered with this commodity, as previously described, was when the Potato Agency used its pricing powers in an endeavor to fix a minimum price for processing potatoes on the spot market. In this case, the appeal required the Commission to make a decision on the principle of such a pricing practice, but not on the price itself.

Another aspect of pricing dealt with by the Commission has been retailing practices. This occurred when the Apple Marketing Board reported to the Commission that, in their opinion, the retail markup on New Brunswick apples was too high. As a result, the Commission directly requested selected retailers to comment on existing price levels. The response was that current prices were justified given operating costs and the perishability of the product. But commissioners noted that the price of New Brunswick apples had subsequently dropped to a more acceptable level and

felt that the purpose of the enquiry had been achieved. This is a legitimate aspect of the role of the Commission in protecting the interest of consumers.

Finally, in 1980/81, the Commission became involved in the question of the price of poultry feed to producers. This issue had aggravated agreement on chicken pricing as producers were obligated to purchase feed and chicks from the processing plants they supplied. Understandably, producers took the attitude that if processors did not allow consultation on feed prices, they had no case for demanding consultation on the price for finished birds. The Chicken and Turkey Marketing Boards requested the Commission to exercise its powers under section 3, sub-section 1(a) and (b) of the Act, to ensure that fair price spreads and trade practices were being applied to all segments of the industry. After consultation with the Department of Agriculture, the Commission agreed that an independent study of feed prices be initiated under the aegis of the former, and supervised by a coordinating committee composed of representatives from the interested parties. The study was unable to prove that feed manufacturers were charging too high prices, but after discussion with the manufacturers the final outcome was that producers were freed from the obligation to purchase feed from the processing companies. This is the only case in the life of the Commission when producers have officially challenged the cost of a production input and illustrates the wide supervisory powers that the Commission may exercise.

7. National Marketing Agency Matters:

The main interaction with national agencies (chicken, turkey and egg) occurs through attendance at signatory, agency and agency sub-committee meetings by the chairman, secretary, and at times, certain commissioners. Reports on such meetings are subsequently given to all members and discussed at regular meetings.

National matters often require consultation with provincial boards in order to establish a firm position on issues. On

occasion, this may be followed by request for a special meeting with representatives of a national agency or the National Farm Products Marketing Council in order to present the interests of New Brunswick. The Commission's effectiveness in this regard has been considerably strengthened since establishment of the Market Organization and Inspection Branch of the Department of Agriculture, which provides professional services to the Commission, and by the appointment of a full-time Chairman.

Only two instances of dispute between a national and provincial agency have been referred to the Commission. These concerned the pricing of extra large eggs and the payment of levies, and in both cases the Commission instructed the New Brunswick Egg Board to comply with the national regulations.

8. Commodity Quotas:

This subject is an integral part of both national and provincial marketing board matters with respect to chicken, turkey and eggs. It has been categorized as a separate item of business to identify the amount of Commission input specifically devoted to quotas. Although only six percent of overall business, this represents over twelve percent of business related to the three commodities and is relatively high as the figure does not include complaints and appeals on quota issues.

The Commission's main concern with quotas is the quantity allocated to the province by national agencies and their method of arriving at this allocation. This can involve considerable time as it requires meeting with board representatives, study of formula for allocation of over-base quota, knowledge of the situation in other provinces, preparation of briefs and meetings at national level. At times, concern over unsatisfactory quota allocation may require discussion with the Minister of Agriculture.

Provincial quota matters dealt with by the Commission have included the following:

- over-quota production and the provincial board's assessment of penalties.

- underutilization of quota and its possible re-allocation. In the case of chicken, the Commission instructed the board to set utilization at 95% of individual producer quota.
- the administration of quota to allow new entrants.
- changes in the quota policy of boards, e.g., use of quota as collateral on a loan.
- quota distribution by the Chicken Marketing Board in relation to producers in the North and South of the province.
- examination of the difficult question of quota values.

9. Commission Policy and General Matters:

The policy of the Commission refers to the method of conducting its responsibilities as laid out under the Farm Products Marketing Act. This factor has seldom arisen directly in the minutes of meetings although policy attitudes are inferred by some of the decisions. Items directly discussed have been:

- possible conflict of interest for commissioners when voting on certain issues;
- the amount of supervision that should be conducted over the operation of boards;
- the handling of appeals and negotiation procedures;
- the prior-approval and gazetting of board orders and;
- means of maintaining regular communication with boards.

Indirectly, the policy of the Commission in the past appears to have been a "hands off" approach in the supervision of board activities. However, in the last two years or so, a firmer control of board actions is evident and no doubt a result of necessity.

Other internal matters arising are largely administrative but include general liason with the Department of Agriculture.

10. Appointments:

A routine matter is the appointment, upon request, of selected board staff as inspectors under the provisions of the Act and the appointment of scrutinizers for producer plebiscites and board elections. The Commission also selects and appoints conciliators

and arbitrators on disputes and approves the names of individuals proposed by each party as members of the price negotiation committees for processing potatoes.

1.5 Conclusions

Since 1972, there has been rapid development and expansion of organized marketing in the Province. But it is only since formation of the Farm Products Marketing Commission in 1977, that it has become increasingly apparent that government has an essential role to play in supervising the operation of marketing organizations, within the intent of the legislation, and for providing adjudication services to participants in the system. This has placed increasing demands upon the Commission and an increase in the associated work load. Moreover, during its life, the Commission has had to gain experience and develop expertise in undertaking its role and particularly so in relation to supply management plans for which there was no previous experience.

The structure under which the Commission was established has placed severe limitations on its ability to effectively handle its expanding role and to deal with increasingly complex market circumstances. Until the appointment of a full-time chairman in January, 1983, and the subsequent establishment of an office, the Commission operated as a part-time committee with no staff and was totally reliant upon the Department of Agriculture for all back-up services.

Due to these circumstances, the Commission has had no research or analytical capability; it has not been able to assemble and maintain essential records and background reference material; it has not been possible to establish regular and effective communication with the marketing boards; and it has not been in a position to foresee trends or to develop common principles and criteria for application to the operation of marketing plans. The result is that the Commission has had to react to events instead of playing a leading role in the evolution of organized marketing systems. Furthermore, because of the part-time nature of the Commission and lack of any basic administrative

facilities, much of the Commission's work, prior to 1983, had to be conducted by the Chairman and Secretary/Manager on an informal basis to enable the Commission to carry out its responsibilities.

Another unsatisfactory factor is the close link between the Commission and the Department of Agriculture, without which the Commission cannot function. At the present time the Commission depends totally on the Market Organization and Inspection Branch for professional input and its operational costs are budgeted for under various parts of the Department's budget. Clearly, from its mandate, the Commission should be an independent body in control of its own staff and budget. To be directly connected with the Department of Agriculture, whose function is to serve the farming community, infers a bias in the Commission's activities. This is contrary to the role of the Commission which is to provide impartial supervision and regulation for all parties in the marketing systems.

In summary, it is concluded that the present structure and organization of the Farm Products Marketing Commission is unsatisfactory and inadequate to enable it to fulfill its intended functions. It is also concluded that, as a government agency, it should not be directly involved in the pricing of commodities; that it should develop common principles and criteria for application to the operation of all marketing plans; and that it should place greater emphasis on promoting New Brunswick interests at the national level.

1.6 Recommendations

- 1) It is recommended that the structure of the Commission be changed to enable it to effectively carry out its expanded duties and responsibilities.
- 2) It is recommended that the Commission should not be directly involved in the pricing of commodities, but that an independent appeal system be introduced.
- 3) It is recommended that the Commission should develop common principles and criteria for pricing and quota management for application to all commodity marketing plans. (Detailed recommendations are provided in Report II).

- 4) It is recommended that the Commission should place greater emphasis on promoting New Brunswick interests at the national level.
- 5) It is recommended that the Commission, and the other commissions, be provided with a common secretariat made up of existing staff and that this be supplemented through use of private sector resources, when necessary.
- 6) It is recommended that the Commission be an independent administration reporting directly to the Minister of Agriculture.

NEW BRUNSWICK DAIRY PRODUCTS COMMISSION2.1 Historical Background

The dairy industry is highly complex and over the past fifty years has experienced many changes. But during this period, two major crises occurred, both of which resulted in Government intervention and action at the request of the industry.

The first was when chaotic marketing conditions arose in the early thirties due to the effects of the recession. In 1934, a delegation from the Farmer's and Dairymen's Association met with the Minister of Agriculture and requested that the Government bring in a Milk Control Act at once. Immediate action was taken and, as time was short, a draft bill was copied from the Manitoba legislation (the first in Canada) and adjusted to suit New Brunswick circumstances. This was placed before the 1935 session of the Provincial Legislature and passed with approval from both sides of the House. "The Dairy Products Act" received Royal Assent on 14 April 1935, and soon achieved a semblance of order through controlled pricing and orderly marketing.

The second crisis occurred more gradually during the sixties, when the industry fell into a serious state of decline, and it became apparent that the legislation and mechanisms that had served the industry well in the past had become outmoded in a changing world. The Government of the day, therefore, appointed a Royal Commission by an Order in Council 6 May 1970, and directed that it enquire into all aspects of the dairy industry in the Province with particular emphasis on producing, processing and distributing milk, milk pooling, promotion, and amendments to the Dairy Products Act.

Early in its task the Commission deemed it necessary that Government should consider legislative changes which were felt to be of paramount concern to the industry. An interim report was therefore submitted in December 1970, for the purpose of giving clear indication of the areas in which, at that point in the

inquiry, the Royal Commission felt the Dairy Products Commission must be provided with definite authority as an immediate requirement. These proposals were examined by the legislature and Amendments to the Dairy Products Act were approved in 1971.

The final report of the Royal Commission, completed May 1971, was a comprehensive document covering all aspects of the industry and contained a large number of recommendations. Virtually all those in regard to the Dairy Products Commission and milk marketing have since been implemented, reference Table 3. The single most important result of the recommendations was the establishment of the New Brunswick Milk Marketing Board in 1973, under the new provisions of the Dairy Products Act.

TABLE 3
IMPLEMENTATION OF THE RECOMMENDATIONS OF
THE ROYAL COMMISSION

Topic	Number of Recommendations	Number Implemented
D.P.C. Structure & Facilities	4	4
Milk Quality Control	6	3 1/2
Milk Quotas	3	3
Pooling & Market Areas	5	5
Promotion & Advertising	4	4
Distrib. of Fluid Milk Products	10	5
Industrial Milk	4	4

2.2 Administrative Structure

The Commission is a body corporate and since 1981, has consisted of six members who are appointed by the Lieutenant-Governor in Council, as follows:

- One Milk Marketing Board Representative
- One Milk Dealers Association Representative
- One Consumer Representative (since the Act was amended in 1981)
- Three Members not actively associated with the dairy industry (including the chairman and vice-chairman).

A quorum is constituted by three members of the Commission.

All members of the Commission work on a part-time basis. The secretary/manager and other staff carrying out duties for the Commission, as listed below, are full-time employees of the Department of Agriculture.

Management/Administration:	Secretary/Manager	- 1
	Executive Officer	- 1
	Auditor	- 1
	Secretarial	- 2
Inspection Staff:	Supervisor	- 1
	Field Inspectors	- 4
Laboratory Staff:	Supervisor	- 1
	Technicians	- 6

2.3 Powers Under the Act:

The Commission has the power under the Act, as consolidated to September 1, 1976, to;

- 1) Carry out and give effect to the object of the Act which is the establishment and enforcement of marketing conditions to the common benefit of the dairy products trade and the general public;
- 2) Investigate and study the situation of the dairy industry and the Dairy Products trade;
- 3) Establish or prescribe within the province or within the limits of any area it may designate, a price or scale of prices to be paid for milk, cream and butterfat or any grades thereof;
- 4) Supervise, control and regulate the purchase, transportation, handling, conversion, preparation, storing, delivery, sale and distribution of milk and cream as well as the care and collection of milk and cream containers;
- 5) Approve, if expedient, any agreement respecting the price of milk and cream entered into between any persons engaged in the dairy products trade;
- 6) Fix the rates and charges or the maximum and minimum rates and charges that a transporter is authorized to charge for the

transportation of milk and cream and the schedules and service that such a transporter must observe and provide;

- 7) Require the filing of returns, reports and other data by transporters;
- 8) Prescribe and define the rights, privileges, obligations and liabilities of transporters, shippers and receivers in relation to the carriage of milk and cream;
- 9) Arbitrate, adjust and settle disputes arising between producers, consumers, milk dealers, milk vendors and transporters engaged in the milk and cream industry;
- 10) Designate the proportions of milk and cream that shall be paid for at each price where the price paid or payable varies according to the use thereof;
- 11) Regulate the manufacture, processing, distribution or sale of reconstituted milk;
- 12) Cooperate with a marketing board or agency of Canada or of any province of Canada for the purpose of marketing milk;
- 13) Specify the terms and conditions upon which a licence or permit may be obtained and the fees payable thereof;
- 14) Prescribe the books of accounts, records and reports to be kept or made by any producer, distributor, dealer or transporter of milk and cream;
- 15) Require persons who supply, distribute, transport, process, keep for sale or sell milk and cream to furnish information relating to such sales;
- 16) Prohibit milk dealers from discontinuing the purchase of milk from producers and vice-versa without leave of the Commission;
- 17) Prescribe the terms and conditions upon which milk may be produced, received, handled, transported, stored, delivered, supplied, processed, kept for sale or sold, and prescribe the method of determining the butterfat or other content of milk and cream;
- 18) Provide that milk and cream shall be marketed by or through the Commission and to fix, impose and collect service charges to meet the marketing expenses;

- 19) to require any person who produces milk and cream to sell to or through the Commission and to prohibit any person from marketing otherwise;
- 20) Collect money owed for milk and cream marketed by or through the Commission and to recover money so owed in any court of competent jurisdiction;
- 21) Conduct a pool for the distribution of money received from the sale of milk and cream, and after deducting expenses, to distribute the remainder of the money so that the payment to each person entitled to share is based on the amount, class, variety and grade of milk and cream delivered by him.

In addition, the Commission has the powers of Commissioners under the Inquiries Act while conducting an investigation pertaining to dairy products.

Since the Act was consolidated in September 1976, some minor amendments have been made but no major changes.

2.4 Supervisory Activities and Role of the Dairy Products Commission

A review of the Commission's activities over the five year period 1979 to 1983, was conducted through analysis of the minutes of meetings, examination of Commission orders and discussion with the administrative staff.

On average, the Commission holds eleven regular meetings per year, of which seven are for a full day and four carry over for part or all of the following day. In addition, it is usually necessary to conduct one or two telephone conferences or special meetings. An important feature of regular meetings is input from delegations and individuals who have either been requested to appear before the Commission or who have themselves asked for a meeting. An average of eighteen such interviews occur each year and include the Milk Marketing Board, Milk Dealers Association, representatives of dealer/vendor companies, and milk producers (reference Table 4).

The business dealt with at meetings has been categorized under ten headings, reference Table 5, and these are listed in order of significance on the basis of the number of items discussed; which does not necessarily reflect the amount of time devoted to each. These categories are discussed below and clearly demonstrate the regulatory and supervisory role and activities of the Commission.

1. Milk Quality and Measurement:

This category includes the following factors:

- review of milk quality objectives and monitoring systems;
- quality problems detected by laboratory analysis; on farm and M.M.B. silos;
- results of inspection of farm and plant premises and on-going monitoring of problem cases;
- regular review of data on in-plant milk composition; i.e., butterfat and no added water;
- special sampling and testing of milk on request from other agencies; i.e., radiation (N.B. Power);
- updating of laboratory techniques and equipment;
- problems with milk sampling by bulk-tank drivers;
- meetings with individual farmers and dairy representatives to discuss the cause of quality problems, required corrective measures and, if necessary, suspension of licence until improvements have been undertaken;
- consideration of a price penalty system for quality infractions rather than a licence suspension;
- technical problems with the measurement of milk volume, i.e., dipstick and meters.

The maintenance and improvement of milk quality is the foremost issue dealt with. This receives detailed attention and all quality infractions are referred to the Commission for action. In undertaking this task, the Commission is dependent on the services and efficiency of the dairy laboratory and field inspection staff.

TABLE 4

NUMBER OF APPEARANCES BEFORE COMMISSION

	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>
Milk Marketing Board	5	6	3	4	3
Milk Dealers Association	4	3	4	1	1
Milk Dealers/Vendors	5	10	5	2	6
Producers	5	3	5	4	2
Others	<u>2</u>	<u>1</u>	<u>2</u>	<u>2</u>	<u>3</u>
TOTAL	21	23	19	13	15

TABLE 5

CATEGORIES OF BUSINESS
IN ORDER OF SIGNIFICANCE

<u>CATEGORY</u>	<u>PERCENTAGE</u>
1. Milk Quality and Measurement	14.9
2. Licences	13.3
3. Pricing	12.1
4. Dealer and Vendor Matters	11.9
5. Acts, Orders and Legal	9.9
6. D.P.C. and M.M.B. Policy and General	7.6
7. Financial Matters	6.8
8. Products and Processing	6.5
9. Complaints and Appeals	5.0
10. National Policy and Meetings	4.0
Miscellaneous	<u>8.0</u>
TOTAL	100.0%

Presently the Commission has full authority over supervision of milk quality from the cow to delivery at the plant. At this stage, quality is good as the Commission exercises total control over inspection of farm premises, sampling of farm milk, issuance of producer and transporter licences and decision on imposition of penalties for infractions. However, the Commission does not

have control over quality from the time milk enters the plant until it is purchased by the consumer at the retail level. At times, the quality of milk leaving a plant may be poorer than when it was delivered. The Commission's only responsibility in this phase of milk treatment is for composition standards.

2. Licences:

The Commission has authority for the licensing of milk plants, producers, milk dealers, milk vendors, bulk tank milk graders, transporters and storekeepers. This activity is closely related to the maintenance of milk quality, and licences are approved, suspended or cancelled largely on the basis of information supplied through the inspection and milk laboratory services.

In practice, the Secretary-Manager has been delegated authority to issue all licences with the exception of those for dealers and vendors, as these are a routine matter. For example, producer licences are renewed annually on the basis of a list supplied by the M.M.B. because it is known from regular monitoring that the standard of premises and milk quality are satisfactory.

The dealer/vendor licences, while also largely routine, have been handled directly by the Commission for two reasons:

- 1) Prior to 1 April, 1983, the province was divided into 21 market areas and there was competition between dairies to expand their operations into areas for which they were not licensed.
- 2) So that the Commission may monitor and control the absorption of small dairies by the larger companies and mergers or changes in ownership.

However, since there are now only two market areas, which are non-controversial, the reason under 1) above no longer exists, and authority for renewal of the majority of dealer/vendor licences could also be delegated to the Secretary-Manager. But the item under 2) should continue to be approved directly by the Commission, including any applications for new licences.

This overall category of Commission business appears high on the list because of the frequency of occurrence but, in fact, it takes up little of the Commission's time, except when necessary to consider refusal or suspension of licences (usually for quality infractions) and subsequently to hear any appeals against these decisions.

The significance of the licensing powers of the Commission is that it enables enforcement of the regulations and orders in regard to milk quality and the trading practices of dealers and vendors. This also applied to milk prices at the wholesale and retail levels prior to the Commission relinquishing this control.

3. Pricing:

Prior to 1 April, 1983, the Commission set the price of class 1 and 2 milk at the producer, wholesale and retail levels but subsequent to that date, and concurrent with the reduction in number of market areas, control of wholesale and retail prices ceased in favour of allowing a more competitive market system to function.

The only prices now set by the Commission are those paid to the M.M.B. by the dealers for fluid milk and cream. A price change is set in motion by an application from the M.M.B. and is assessed on the basis of the interests of all parties. This may involve all or some of the following:

- appraisal of briefs and the hearing of delegations from the M.M.B. and the Milk Dealers Association;
- study of the legitimacy and implications of the producers cost of production formula;
- a review of current retail prices;
- consideration and subsequent assessment of public reaction and possible effect of volume of milk sales;
- hearing of appeals on both the refusal or granting of a price increase.

This policy change required considerable discussion and consultation prior to implementation. It reduced the amount of government control over wholesale and retail marketing, is designed to be of benefit to the consumer and simplifies the Commission's involvement by removing it from the most controversial area of pricing. Nevertheless, the Commission continues to monitor retail prices and trade practices in the interests of the public and the industry, and would no doubt take corrective action if excesses occurred.

Until recently, the pricing of milk for manufacturing purposes, classes 3 (ice cream), 4 (fancy products), 5 (cheddar cheese), and 6 (butter and milk powder), was carried out by the M.M.B. Recently, however, the Dairy Products Commission has assumed the responsibility for pricing manufactured milk under the Dairy Products Act.

4. Milk Dealer and Vendor Matters:

This category of business deals with the trading practices and marketing methods of dealers and vendors. It has covered such items as violation of regulations e.g., price and butterfat content of products, market areas, change of suppliers, discount practices, packs and containers, brand names and labels. In many respects, the trade itself has been the best supervisor of these factors, as companies are quick to report supposed infractions by their competitors. But the Commission monitors the situation through its auditor, dairy laboratory, field staff and the commissioners themselves.

The policy change in regard to pricing and market areas will reduce the volume of business dealt with under some of the above items. However, with increased competitiveness in the trade, other factors may become more significant and the Commission will need to keep an eye on developments.

5. Acts, Orders and Legal:

Matters dealt with under this category concern:

- interpretation of or required amendments to the Farm Products Marketing Act and the Dairy Products Act in particular, but also the Farm Products Boards and Marketing Agencies Act and the Farm Products Grades Act. This may be done by the Commission for its own purposes or at the request of the M.M.B.

- amendment, repeal or introduction of new Commission orders. In practice the majority of orders are repeals which, at the same time, introduce new conditions. Over the past five years, the Commission, on average, has approved twelve orders per year, mostly concerning price changes.

- provision of an opinion to the M.M.B., upon request, on the Board's authority to pass an order governing certain conditions, and discussion of new orders passed by the M.M.B. Until four years ago, the Commission prior-approved Board orders, but this was ceased on legal advice that it would be difficult for the Commission to hear a complaint or appeal against an order that it had itself approved.

- referral and consideration of legal opinion on the above matters, including drafts of amendments to legislation.

The major problem continually faced by the Commission in conducting its responsibilities has been the anomalies and confusion in the dairy legislation. While strenuous attempts have been made to clarify and rectify this situation, the legal authorities have been unable to provide a satisfactory solution. It appears that a total re-drafting and consolidation of the two major dairy acts is required.

In addition to the above, the Commission also seeks legal opinion on other business such as interpretation of powers delegated to the M.M.B. and disputes or appeals.

It is of interest that the Dairy Products Commission, although in existence for nearly fifty years, only had fifteen active orders on the books at 1 April, 1984. This testifies to the efficiency of the administration of affairs. The Milk Marketing Board at present has seven orders in effect.

6. D.P.C. and M.M.B. Policy and General Matters:

The Commission regularly reviews policy in regard to specific factors as previously demonstrated by the change in pricing and market area policies. However, it occasionally reviews overall objectives and policy as a means of keeping a perspective on developments in the industry and the Commission's role. There are also certain house keeping matters that are attended to such as the Commission's budget, scheduling of meetings, etc.

The policy and activities of the M.M.B. are closely monitored by the Commission, first through reports on proceedings at M.M.B. and area meetings from the Commissioner who represents milk producers. Second, from meetings with the executive of the M.M.B., either at the request of the Board or the Commission. At times this includes quota, particularly the allocation of M.S.Q. While this keeps both parties generally well informed, the executive of the M.M.B. does not necessarily accept the opinions or advice provided by the Commission.

Also included under this heading have been matters concerning the Cream Producers Marketing Board which are infrequent as it is now barely functional. The Commission is responsible for this Board as its powers are derived from the Dairy Products Act, however, the Commission has no authority over the utilization of cream, another anomaly in the legislation. Due to the decline in cream production and the inactivity of the Board, it would be advisable to dissolve this organization and place its affairs under the jurisdiction of the M.M.B., but with the requirement for a cream advisory committee.

7. Financial Matters:

The key area of financial supervision is audit of milk classification, delivery, shrinkage and utilization at plants, and thus payments made to the M.M.B. by dealers for raw milk supplies. This could be controversial, particularly in view of the continuing problems encountered with bulk milk measurement, and represents an important part of the Commission's role in

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providing independent and unbiased services to the industry. The system works well and only occasionally are audit decisions appealed by either party.

Other areas of financial supervision concern bonding requirements, approval for borrowing, examination of M.M.B. financial statements, the insolvency fund (to cover the M.M.B. against default by dairies), late payment of monies due and the interest rate chargeable, and payment of defaults by dairies. The last point required considerable attention by the Commission when Capital Co-operative declared bankruptcy and also brought about an amendment to legislation in regard to the insolvency fund.

8. Dairy Products and Processing:

The main items have been the possibility of producing U.H.T. milk in the province, subsequently followed by the formation of Dairytown Products Ltd. with the attendant problems and controversy. Apart from this particular subject, items normally dealt with concern the processing and marketing of new products such as dairy spreads, chocolate milk and "Super 2", or consideration of applications for the marketing of products from out of province, such as U.H.T. milk from Ontario.

9. Complaints, Appeals and Hearings:

The Commission receives two categories of complaints and appeals; those against rulings or decisions of the Commission and those against the M.M.B. and dairy companies. The former are straight forward and generally concern either appeals against suspension/refusal of a licence resulting from unsatisfactory premises/milk quality, or an appeal from the M.M.B. and the Milk Dealers Association over the approval or refusal of a requested price increase and, in the past, the percentage allocation between the two parties.

The latter are often matters that should first have been appealed to the M.M.B. or dairy company and the complainant is advised of the correct procedure. Nevertheless, the Commission

informs the relevant party of the complaint, and in the case of the M.M.B. may advise of its opinion on the matter. Some of these problems are resolved at that level, but others are then appealed to the Commission. Under these circumstances, both parties are requested to appear before the Commission, who may give a ruling at that time or may require additional information and a further meeting prior to making a decision. It is very seldom that the Commission has found it necessary to conduct an official hearing on a dispute.

10. National Policy and Meetings:

Until recently, one Commissioner was a representative on the Milk Supply Management Committee of the Canadian Dairy Commission (C.D.C.) and thus kept the Commission informed on developments at national level. However, since his retirement, a replacement has not been named and does not necessarily have to be from the Commission. In addition, certain Commissioners and administrative staff attend national conferences of the C.D.C., the Dairy Farmers of Canada and other organizations including the Atlantic Dairy Council.

A routine matter concerns increases in the national support price for butter and skim milk powder, which the C.D.C. advises by telegram, and this requires a Commission order to repeal the previous price and establish the new one.

11. Miscellaneous:

The miscellaneous category covers all other items not included under the previous headings. The only topic of significance is milk transportation, which is of note because of the very few times it arises, indicating that M.M.B. management of this factor is satisfactory.

2.5 Conclusions

It is apparent that the Dairy Products Commission has been conducting its responsibilities with efficiency, expediency and impartiality. The policy, regulations and activities of the Commission are regularly reviewed and updated, and the daily contact of staff with the industry enables the Commission to be aware of happenings and the development of problems. Nevertheless these are definite areas where improvements can be effected in the control and supervision of the marketing of milk and dairy products.

One area is presently outside the jurisdiction of the Commission as it falls under the Dairy Industry Act and not the Dairy Products Act. This refers to the fact that the Commission does not have control over milk quality from delivery at plant to purchase by the consumer. The result is poorer quality at the retail level than is necessary, which undermines the good quality maintained at the primary level. The Commission also has no authority over the processing and quality of manufactured dairy products or the licensing of dairy plant personnel, although it is responsible for licensing dairy plant premises. While some duties in this respect are conducted by staff of the Commission (as employees of the Department of Agriculture) and there is fringe involvement by some Department managers, the situation leaves a "no mans land" area of responsibility. The predicable outcome is less than satisfactory monitoring and supervision of this segment of the industry.

In addition, the above situation and other factors are complicated by ambiguity and some duplication in the two dairy acts and the Dairy Industry Act is many years out-of-date. This results in the jurisdiction and responsibilities of the Commission not being at all clear in some matters.

Another factor, evident from the minutes of meetings, is that the Commission involves itself in considerable detail on a number of subjects which would be better dealt with at an administrative level. Examples can be found with quality control, licensing and dealer/vendor matters. In the past, this attention to detail was

undoubtedly a necessary aspect of the Commission's supervisory role, but circumstances have changed and the Commission should direct its time and efforts to the more important policy and supervisory matters.

Conversely, it is apparent that the Commission has spent little time on National matters and the provincial position within the national dairy system. Again, in the past, there was little call for much input at national level due to the stagnation of the provincial dairy industry and the fact there was surplus Market Sharing Quota until 1981. However, this situation has also changed considerably with revitalization of the primary sector as a result of the activities of the M.M.B. and expansion and increased interest in processing and thus the demand for "industrial" milk. Efforts at the national level, in recent times, have very largely been conducted by the M.M.B. while, in fact, this should be one of the primary roles of the Commission conducted in conjunction with the M.M.B.

The combination of the above factors leads to the following conclusions:

- 1) The role of the Commission has substantially changed over the past decade and there is a need to adjust the thrust of its activities by;
 - transferring responsibility for what have now become routine matters to an administrative jurisdiction i.e. the Department of Agriculture
 - placing greater emphasis on New Brunswick interests at the national level
 - providing increased supervision of the activities of the M.M.B. and the interaction between Milk Dealers and the Board.
- 2) The responsibility for milk quality from the cow through to the consumer should be placed under one jurisdiction; either the Commission or the Department of Agriculture, but not split between the two.

- 3) There is a definite need for a major overhaul of the dairy legislation; not just to update and clarify the existing acts, but to consolidate Dairy legislation under either the Dairy Products Act or the Dairy Industry Act and to repeal the other.

In addition, a specific matter requiring attention from the Commission is the future of the Cream Producers Marketing Board. Due to the dormant state of the organization and the decline in cream production, it would appear desirable to dissolve the Board and place its affairs under a "Cream Advisory Committee" of the M.M.B. It would also be advisable for the Commission, in conjunction with the M.M.B. and the Department of Agriculture, to develop a contingency plan for the marketing of cream (or otherwise) in the event that production drops to a level where either it is no longer viable for one of the two dairies to continue making butter or the cost of collection and the provincial cream transportation subsidy become prohibitive.

Finally, a separate matter that requires examination is present representation on the Commission. The legislation requires "one member representing the N.B. Milk Marketing Board", and "one member representing the N.B. Milk Dealers Association". While this has not caused any major problems in the past, it nevertheless, at times, creates a conflict of interest for these two members. In the case of the former, this can arise over the pricing of class 1 and 2 milk or any matter in contention between the Board and the Commission that requires a vote. In the case of the latter, it can arise with any issue concerning an individual dairy company, any matter concerning dealers and vendors as a whole that is in contention, or when the Commission entertains action against the company of which the dealer representative is an employee (which has occurred). This also creates difficulties as a company representative appearing before the Commission does not wish to speak openly about his business when a competitor is facing him as a Commissioner.

2.6 Recommendations

- 1) Because of the changes in the structure of the dairy industry over the past decade, the following recommendations are made.
 - a) transfer responsibility, for what have now become routine matters, to an administrative jurisdiction; i.e., the Department of Agriculture;
 - b) place greater emphasis on New Brunswick interests at the national level;
 - c) provide increased supervision of the Milk Marketing Board and the interaction between milk dealers and the Board;
 - d) place responsibility for milk quality from the cow through to the consumer under the jurisdiction of the Department of Agriculture;
 - e) undertake a major overhaul of the dairy legislation to consolidate this under either the Dairy Products Act or the Dairy Industry Act.
- 2) It is recommended that the Cream Producers Marketing Board be disbanded and that its affairs be made a responsibility of the Milk Marketing Board with the establishment of a "Cream Advisory Committee" representative of the interests of cream producers.

THE DESIRABILITY OF ESTABLISHING ONE GOVERNMENT COMMISSION
FOR THE SUPERVISION OF ALL REGULATED AGRICULTURAL COMMODITIES

This chapter addresses the desirability of amalgamating the Dairy Products Commission with the Farm Products Marketing Commission to create a single, but strengthened, government Commission to direct and develop overall policy in regard to regulated agricultural marketing, and to supervise and support the operation of the commodity marketing boards.

An amalgamation of these two Commissions was first recommended in the report of the Agricultural Resources Study, published early 1978, and the findings and recommendations of the study are therefore presented to begin with. Since that time, however, circumstances have further changed and subsequent sections are devoted to the overall considerations for establishing one Commission and the specific considerations in regard to present day requirements for the Dairy Industry.

3.1 The Conclusions and Recommendations
of the Agricultural Resources Study

The Agricultural Resources Study was initiated by decision of Cabinet on 8 October 1974, with the following objective:

"The overall objective of the Study is to find ways to promote the fullest use of agricultural resources in such a way as to maximize farm income, to strengthen the vitality of the family farm, to encourage new job creation in food processing industries and to increase food production."

The Study commenced in early 1975 and the final report was completed at the end of November, 1977.

The terms of reference included all aspects of the marketing of agricultural products and the Study reviewed the general principles that should be applied to marketing and examined the milk marketing system. The conclusions and recommendations in regard to these two subject areas, relative to this chapter, are summarized below.

311 General Principles for the Marketing of Farm Products

The review of marketing led the Study to the overall conclusion that the marketing of agricultural products was an area that had been neglected for far too long. Although the existing marketing boards had achieved varying degrees of success, this, to a large extent, was in spite of, rather than because of, any firm policy stand or commitment by the relevant authorities.

The Study therefore recommended that "first and foremost, the overall policy objective must be the development of an organized and effective marketing system for New Brunswick agricultural products and that the prime responsibility for this should lie with the Farm Products Marketing Commission with full commitment from the Department of Agriculture." The Study was of the opinion, however, that organized marketing should not be imposed by government but that producers must be encouraged to organize themselves. Nevertheless, there was an important role for government to play by providing producers with the necessary tools to achieve this end and through acting in a supervisory capacity to ensure that full recognition be given to the interests of all participants in the food marketing chain.

It was observed that more commodities had been organized under the Farm Products Marketing Act than under any other structure and that this process basically established marketing boards that were producer controlled, funded and operated. However, while the activities of these boards received supervision from the Farm Products Marketing Commission, the Study noted that the Commission had played very little part in the day to day activities of the boards and that this had resulted in a number

of weaknesses and limitations to the effective operation of marketing boards.

The study concluded that it was essential to strengthen the role of the Farm Products Marketing Commission in the interest of all organized commodities. The weaknesses in the structure and functioning of the Commission were identified as follows:

"Members of the Farm Products Marketing Commission, at present, work on a part-time basis. The Commission has no permanent staff and relies on the Department of Agriculture and Rural Development for expertise and secretarial assistance. The Commission, therefore, tends to react to problems rather than taking an active and leading role in the development of organized marketing. Furthermore, the Commission fulfills no research or analysis function and is thus unable to provide substantial back-up to marketing boards."

On the basis of these findings, two important recommendations were made:

1. "The Study recommends that the Farm Products Marketing Commission take a strong and active role in the development and management of organized marketing consistent with the provisions of the Farm Products Marketing Act."
2. "In order for the Commission to fulfill this active role, it is essential that it be provided with the necessary staff and resources. Thus, it is recommended that the Commission be provided with a full-time secretariat."

The Study considered that the general objective of the Secretariat, acting on behalf of the Commission, would be to maximize to producers and society the benefits to be gained from the orderly marketing of farm products and that this objective would be sought through three main approaches:

- Further development of existing marketing boards and the extension of the marketing board concept to commodities not yet organized.
- Assist marketing boards to promote the interests of orderly marketing through public information efforts.
- Encourage and develop a much greater depth to the activities of marketing boards and provide financial and other resources to enable them to do this.

It was also noted that in performing its tasks, the Secretariat would take full advantage of the expertise of the proposed Marketing Division of the Department of Agriculture (subsequently created in 1979).

312 The Supervision of Milk Marketing

The findings of the Study in regard to the milk marketing system were confined to the institutional aspects and the following comments were made in regard to the Dairy Products Commission.

"An anomaly exists in the present overall marketing structure in New Brunswick in that there is an independent commission for dairy products which reports to the Minister of Agriculture and is not responsible to the Farm Products Marketing Commission. This system, in effect, creates an unnecessary layer of bureaucracy between the farmer and the processor which is not present with conventional marketing boards. It also, through its presence, sets the dairy industry apart from the other commodities. If nothing else, this inhibits communication between it and other commodity groups and an integrated approach towards the marketing of farm products."

"In addition, as far as supervision and maintenance of milk quality standards go, a further anomaly exists in that some of the testing and licensing is carried out by

the Commission and some by the Provincial Department of Health. As a result, the quality of milk and some milk products at the retail level has not always been consistent with quality standards set at the production level. The net effect is that both producers and consumers are the losers."

"The Commission in its original context no doubt served a useful purpose. This no longer is the case and the interests of producers, processors and consumers would be far better served if the Commission ceased to exist and the dairy industry came under the direct control of the Farm Products Marketing Commission."

As a result of these conclusions, the Study made the following two recommendations:

1. "That the Dairy Products Commission be disbanded and its responsibilities absorbed by the Farm Products Marketing Commission."
2. "That milk quality standard should continue to be set by both the Department of Agriculture and the Department of Health but the enforcement of these standards should become the sole responsibility of the Quality Control Section of the Department of Agriculture (on behalf of the FPMC) from the producer to the consumer."

3.2 Overall Considerations

In addressing the question of amalgamation, it is necessary to place this subject in perspective. First, through briefly examining the historical reasons for having two Commissions in the first place and whether these are now valid. Second, through identifying the overall factors that it is necessary to apply to the marketing of all regulated agricultural commodities under modern circumstances.

321 Historical Aspect

Both Commissions were originally established in the mid-1930's under separate legislation as their roles, at that time and in subsequent decades, were very different. As previously described, the Dairy Products Commission was established at the request of the industry to create an organized milk marketing system; in effect a government operated type of marketing board. The Natural Products Control Board was established to exercise control, as the need arose, over the marketing of fishery, forest and other agricultural products. This situation remained largely unchanged through to the 1970's; the decade of the advent of commodity marketing boards and the introduction of supply management. The Milk Marketing Board was created in 1974, as a result of the Royal Commission on the dairy industry, and there was rapid and spontaneous creation of marketing boards for the other main agricultural commodities. Of the present ten boards, the first was the Egg Marketing Board in 1970, and the last major commodity to become organized on a provincial basis was cattle with the establishment of the N.B. cattle Marketing Agency in 1983.

An adjustment was made to the system in 1977, when the Natural Products Control Board was changed to the Farm Products Marketing Commission as a result of a need to place fishery products under separate legislation. At the same time a Forest Products Commission was established, but under the Farm Products Marketing Act as a matter of legislative convenience. While the new Farm Products Marketing Commission thereby became solely responsible for agricultural commodities, with the exception of milk, this otherwise little changed the mode of operation of the Commission.

The developments that occurred during the 1970's greatly changed the roles of the two Commissions, although this was not fully recognized at the time of the Agricultural Resources Study. In essence, the effect of these changes has been to gradually place the Commissions in the position of being responsible for identical functions, but one specifically for milk and the other

for all other organized commodities. The lack of realization and recognition of these changed circumstances has resulted in a Farm Products Marketing Commission that is ill structured and equipped to effectively carry out its present responsibilities, and a Dairy Products Commission that has relinquished many of its past responsibilities to the Milk Marketing Board but still maintains supervision over some aspects of the milk industry that are no longer required of it under modern circumstances. In other words, the role of the FPMC has greatly expanded during the past decade while that of the DPC has considerably shrunk as a result of firm entrenchment of the Milk Marketing Board.

The historical reasons for having two Commissions, therefore, no longer exist. The DPC remains in place purely to conduct the same responsibilities for the dairy industry that the FPMC carries out for all other commodities. The only difference is that the former derives its authority from the Dairy Products Act and the latter from the Farm Products Marketing Act. But, because of their totally separate identities, these same responsibilities are not interpreted in the same way and there is not a uniform application of required principles for the management of the commodity marketing plans. In effect, the dairy industry is now singled out for special treatment, whether it is to its advantage or not, when there is no longer any justification or need for doing so.

322 Overall Requirements for the Management and Supervision of All Marketing Plans

In examining the desirability of amalgamating the two Commissions, there are five major considerations that apply to all organized commodities which should be basic to government policy for the supervision of regulated marketing, as follows:

- Application of uniform principles and standards
- Provision of an independent appeal system
- Provision of adequate and equal support for all marketing boards

- Maintenance of a firm and informed approach to New Brunswick interests at the national level
 - Provision of independent administration of Commissions
- These factors are discussed below.

1. Application of Uniform Principles and Standards:

An essential requirement for the effective supervision and management of all marketing plans is the establishment and application of basic principles common to all commodities. While the marketing of individual commodities may vary according to the nature of the product, which is recognized in their marketing plans, allowance for these factors should in no way alter the principles applied. The main factors involved concern quota management, pricing mechanisms, appeal procedures, board orders, bonding or other security requirements, and the general standards that may be required by the Commission(s) in conducting its supervisory tasks.

The review of the Commissions (Chapters 1 and 2) clearly shows that this is not being done at present. This applies particularly to the FPMC due to its responsibility for nine commodities and the fact it has had to react to events; but it applies also to the DPC in that it has operated under its own set of rules and the thrust of its supervisory activities has been quite different from those of the former.

Achievement of the uniformity required and consistent application of the standards set can most satisfactorily be obtained by having them administered by one Commission.

2. Provision of an Independent Appeal Process:

To date, both Commissions have been directly involved in the pricing of agricultural commodities, whether as the initial and single adjudicator as is the case with class 1 and 2 milk, or as the final arbitrator as has been the case with chicken and turkeys. However, it is totally inappropriate, under present day circumstances, for government to be involved in any way in the price setting process, either as adjudicator or arbiter. The

role of government, as represented by the Commission(s), is to ensure that price negotiations take place between the relevant parties and, failing this, that independent and consistent conciliation and appeal procedures are applied.

It makes no sense for milk pricing to be handled by a separate Commission with separate appeal procedures when this can be more satisfactorily handled by one Commission applying consistent negotiation requirements and providing independent appeal procedures through the appointment of a single appeal panel. Since the DPC ceased the pricing of milk at the wholesale and retail levels, there is not a single factor that sets milk apart from the other commodities as having special requirements.

3. Provision of Adequate and Equal Support for all Marketing Boards:

Due to the complexity of marketing systems, there is a growing need for government to provide support services to marketing boards in terms of cost of production information, analyses of market conditions and market opportunities, the provision of market intelligence information and other services. This applies particularly in a small province such as New Brunswick where the number of producers of any one commodity is small and thus the financial resources of their marketing organization very limited. But these requirements apply even more so to the Commission that is supervising their activities as it must have continually updated knowledge and information on these factors in order to effectively conduct its responsibilities.

While the department of Agriculture should provide services in regard to cost of production data, promotion, and assessment of market opportunities, there is a necessity to provide the Commissions with research and analysis capability and the resources to maintain up-to-date records on all relevant marketing information; provincial, national and, in some cases, international. Similar requirements equally apply to both the Crop Insurance and Grain Commissions. It is, therefore, necessary to provide all four Commissions with a common secretariat through which their needs and those of the marketing boards and other clientele may be served.

An important service presently provided to the milk industry by the DPC is audit of the volume and utilization of raw milk supplied by the Milk Marketing board to the processors and it is essential that this be maintained. However, a similar auditing process is also required for certain other commodities but the FPMC does not have this capability. On the other hand, the FPMC conducts careful analysis of the national situation in regard to chicken and turkeys while the DPC does very little in this regard for the dairy industry. By establishing a secretariat, through pooling and supplementing the present staff resources of all Commissions it will be possible to provide improved and more equitable back-up services to the Commissions and their clientele. Such an arrangement will be much facilitated by housing all Commissions in one office building and this step is already being undertaken.

4. Maintenance of a Firm and Informed Approach to New Brunswick Interests at the National Level:

A key role of the Commissions is to present and promote the interests of the New Brunswick agricultural industry at the national level. This needs to be consistently maintained from a position of strength through being well informed and having a thorough grasp of the national scene. It is not a matter of looking for federal dollars, but one of assuring that New Brunswick obtains fair treatment and allocation of resources under national policies and programs, be it allocation of quota under supply management plans or the impact of changing the "Crows Nest" grain rate.

This has been a major weakness of all the Commissions in the past, either because it was not considered a high priority, as has been cited with the DPC, or because of a lack of resources to do so, as will be described for the Crop Insurance Commission. The FPMC has made some progress in this area in recent years and provides a good example of the benefits to be obtained from taking this approach. In early 1984, the Commission successfully appealed the allocation of over-base chicken quota to the

province and, as a result, obtained an additional one million pounds of quota. In economic terms, this will provide an extra \$800,000 worth of product at the primary level plus the associated employment and value added benefits.

An essential requirement in pursuing this goal is to have the research capability that would be provided by a suitably staffed secretariat. But equally important, is to have the ability and the authority to clearly present the provincial case at the federal level and to negotiate the outcome. In most cases, however, this cannot be satisfactorily conducted by a part-time chairman of a Commission who is not a civil servant and is little known in federal circles. There would, therefore, be considerable advantage in having one commission for all regulated agricultural commodities so that a full-time chairman with Deputy Minister status could undertake this function from a position of strength and with the full backing of the provincial government.

5. Provision of Independent Administration of Commissions:

It is necessary for the Commission(s) to carry out government policy in such a manner as to avoid any perception that one party in the marketing system may have greater influence than the others. To date, the operations of both the Dairy Products Commission and the Farm Products Marketing Commission have been totally tied to the Department of Agriculture for all logistical and staff support services. This does not infer that the arrangement has biased decisions of the two commissions, but the problem is that the arrangement can be, and at times has been, perceived as influencing decisions.

The basic purpose of the Department of Agriculture is to serve the interests of the farming community of the Province. Therefore, to be directly connected with and providing total support for the two Commissions, whose objective is to serve the interest of all parties in the marketing system, suggests a certain conflict of interest. This places the Minister of Agriculture in a difficult situation as, under present circumstances, marketing problems and disputes are not infrequently

referred to him and, at times, before the problem has been presented through the correct channels. In other words, because of the very direct connection between the Department and the Commissions, interest or pressure groups approach the Office of the Minister of Agriculture in an attempt to obtain special analysis and consideration of their problems.

This situation is unsatisfactory for all parties and weakens the ability of Commissions to effectively conduct their responsibilities. Through the establishment of one Commission for all commodities, it becomes feasible to have an administration that is independent from the Department of Agriculture, with a chairman of Deputy Minister status who is directly responsible to the Minister of Agriculture. Under these circumstances, it becomes simpler to define the roles and functions of the Department and Commission in regard to regulated marketing and to achieve the close cooperation that is required. It also clearly delineates the correct channels of communication for all parties, the respective duties of the two Deputy Ministers, and the position of the Minister in respect to decisions he may be called upon to make.

3.3 Considerations Specific to Dairy Marketing

There are certain regulatory functions presently conducted by the DPC and other authorities, that are specific to milk marketing and are not carried out for other commodities by the FPMC. These concern milk quality control, licensing and certain milk dealer/vendor matters. The detailed factors are first itemized below and the implications are subsequently discussed.

331 The Factors Involved

1. Milk Quality Control:

As previously described under Chapter 2, the responsibility for control of the quality of milk and dairy products is a highly and unnecessarily complicated system. In summary, the present duties of the various authorities involved, with brief comment on each, are as follows:

- 1) Department of Health: The setting and monitoring of health standards. The latter only receives nominal recognition through spot-checks at the retail level.
- 2) Dairy Products Commission: Maintenance of quality standards from the cow to delivery at the processing plant, under the requirements of the Dairy Products Act. This responsibility is very effectively conducted, however, it is accomplished through the dairy laboratory and field inspection staff of the Department of Agriculture seconded to the DPC. The role of the Commission itself is to set and monitor the quality standards and to take action on quality infractions that are brought to its attention. The latter is achieved through the powers of its licensing authority. The Commission is also responsible for monitoring milk composition (as opposed to quality) from the farm to the retail level.
- 3) Department of Agriculture: Under the provisions of the Dairy Industry Act, responsible for milk quality at dairy plants, the sanitation of plants and the quality of dairy products. The inspection aspect of this is conducted on behalf of the Department by the Dairy Section of the Dairy, Fruit and Vegetable division of Agriculture Canada. But infractions of standards are handled by staff of the DPC (not the Commission itself) as members of the Department of Agriculture, on advice from the federal inspectors.

It should be noted that the Milk Marketing Board has no responsibilities or authority in this area although it co-operates with staff of the DPC.

2. Licensing:

The licensing and inspection of farm and plant premises, and the examination and licensing of various industry personnel are carried out under the authority of the two dairy acts, as follows:

1) The Dairy Products Act: The DPC is responsible for the following categories:

- Milk Processing Plants
- Milk Producers: Carried out on the basis of a list provided by the Milk Marketing Board.
- Milk Dealers: Requires endorsement from the Department of Health.
- Milk Vendors
- Milk Transporters: Covers employees of the Milk Marketing Board, Dairy Companies and independent operations.
- Bulk Tank Milk Graders: requires that milk truck drivers be certified as having the required skills to take milk samples for test purposes.

2) The Dairy Industry Act: Staff of the DPC, as members of the Department of Agriculture, are responsible for the following licenses which must be approved by the Minister.

- Dairy Plant Operators: i.e. the plant manager or management.
- Cream Graders: in effect, grading of cream from farm separated milk
- Provisional Cream Graders: working under supervision
- Butter Makers
- Provisional Butter Makers: working under supervision
- Milk and Cream Testers: for checking of grades, approval of payments and other factors.

It should again be noted that the Milk Marketing Board has no licensing responsibilities.

3. Milk Dealer/Vendor Matters:

In the past the DPC has dealt with a multiplicity of matters concerning the regulation of trade practices which basically fall into three groups, some of which are now redundant.

- Violation of regulations in regard to wholesale and retail prices and thus discount practices, or butterfat content of products: the former no longer applies and the latter is part of the quality control system.

- Allocation (and licensing) of market areas and approval for milk vendors to charge their suppliers: this factor is no longer of significance since the number of market areas was reduced from twenty-one to two. Area 2, in the southeast, is purely maintained to protect the interests of Brookfield Dairy in Nova Scotia which receives approximately forty percent of its fluid milk supplies from New Brunswick producers.
- Regulation of size of milk packs/containers, the introduction of new products e.g. chocolate milk, and brand names and labels: this mixture of items is still controlled. The first is specifically controlled under Commission Order No. 7-41. The second is conducted for two reasons; provincial products are checked for their composition, which is valid, but out-of-province products are controlled more in regard to protecting the interests of the New Brunswick industry and the legality of such actions is dubious. The third, brand names and labels, is carried out under the general provisions of the Dairy Products Act. The reason is to ensure that the origin of the product is identifiable and to prevent a proliferation of vendor brand names and labels.

332 Implications of the Factors

In examining these factors in relation to amalgamation of the two Commissions, the prime consideration is provision of a system that will efficiently maintain high quality standards for milk and dairy products in the interests of the consumer and the industry as a whole. As concluded under chapter 2, section 2.5, the present system, based on historical circumstances and conducted under two separate pieces of legislation, no longer makes sense and cannot be adjusted through piecemeal measures. Modern circumstances require that one organization be made fully responsible for the quality of milk and dairy products from the cow to the consumer and that the necessary measures be conducted under the authority of one legislative act.

However, the conduct of inspection, licensing and quality control for any product is not appropriate to the present day role of a government Commission. Moreover, under existing arrangements, the DPC is only responsible for quality control for the first half of the marketing chain (cow to processing plant) and this is conducted through staff of the Department of Agriculture. With amalgamation of the two Commissions, the powers required for regulation and supervision of the dairy industry, apart from quality control, may be derived from the Farm Products Marketing Act. Therefore, the Dairy Products Act would no longer be required and the milk inspection and licensing powers contained therein could conveniently be incorporated in a re-written Dairy Industry Act. This would then place full authority for all aspects of control of the quality of milk and dairy products with the Department of Agriculture, with one qualified exception. Health Standards must continue to be set by the Department of Health but the responsibility for testing for these standards should be transferred to the dairy laboratory of the Department of Agriculture which has the capability to do so.

Consideration should also be given to delegating authority for the licensing of milk producers to the Milk Marketing Board, which already licenses them in respect to production rights through the quota system.

The other remaining factor is the handling of milk dealer/vendor matters. In the past, with a large number of market areas, it was necessary to carefully regulate the activities of the trade to ensure fair treatment for all. But now the system has been changed to one of open competition, this requirement no longer exists. The factors in regard to control of product quality and composition would fall under the jurisdiction of the Department of Agriculture and matters in regard to inter-provincial trade would be a responsibility of the Farm Products Marketing Commission. Regulation of brand names and labels is not a appropriate task for either of these authorities and if there are still valid reasons for this regulation, it should be handled by another competent authority under the Companies Act.

3.4 Review Recommendations

On the basis of the foregoing discussion and the conclusions reached from review of the Commissions, the following important recommendations are made.

1. It is recommended that the Dairy Products Commission be amalgamated with the Farm Products Marketing Commission to create one Commission in order to serve the best interests of the Agricultural Industry and the Government of New Brunswick.
2. It is recommended that the strengthened Farm Products Marketing Commission so created, be provided with a secretariat that has adequate research and analytical capability to enable the Commission to effectively present and negotiate New Brunswick interests at the Federal level and to provide the support services essential to the efficient management of New Brunswick agricultural Marketing Boards.
3. It is recommended that the strengthened Farm Products Marketing Commission be an independent administration under the direction of a chairman, with Deputy Minister status, directly responsible to the Minister of Agriculture.
4. It is recommended that the Dairy Products act be repealed and that amendments to the Farm Products Marketing Act be enacted to include therein powers necessary to regulate the Dairy Industry.
5. It is recommended that the Dairy Industry Act be re-written to both update the existing content and to include all powers presently under the Dairy Products Act in regard to control of the quality of milk and dairy products, for the purpose of placing full responsibility for these functions under the jurisdiction of the Department of Agriculture and Rural Development.

THE RE-ORGANIZATION OF THE FARM PRODUCTS MARKETING COMMISSION

As in the past, the primary responsibility of the Commission will be to provide assurance that marketing boards and agencies deriving their rights and authorities from government, function in a manner consistent with government policy as prescribed in the various Acts and Regulations.

Decisions taken by boards and agencies primarily affect producers. However, as a result of their many powers, they also make decisions that can have an impact upon almost all members of the agri-food industry, including consumers. To the extent that such far reaching authority has been granted to one sector of the agri-food industry, other sectors must be given assurance that there is a measure of protection within the process to safeguard their rights. Protection currently exists within the Farm Products Marketing Act through provision for "right of appeal" by all persons, including producers, affected by Board decisions. This principle of accountability guides the process of evolution of boards and agencies within a regulated environment and must continue to play a key role in the proposed amalgamation.

In considering specific aspects of amalgamation of the two commissions, the review has taken particular care to recognize the concern of the Dairy Industry that such an action might dilute its representation to government, erode the quality of service presently provided and generally down-grade their status in the system.

The proposed structure for the expanded Farm Products Marketing Commission will, in fact, provide for more representation from the dairy industry than is the present case with the Dairy Products Commission, as subsequently described. Equally, through placing responsibility for all aspects of the quality control of milk and dairy products under one authority, the Department of Agriculture, this will provide a more comprehensive service to the industry at the same high level of efficiency.

4.1 Criteria for Re-organization

A number of criteria should be considered in deciding the makeup of the new Commission:

1. The Commission, since it is a government institution, must provide for a strong leadership role through government representation.
2. It must provide for significant input from producers since it is their organizations that are being supervised. As the Commission is responsible for monitoring the activities of ten boards, it would be advantageous to appoint individuals who have exposure to more than one commodity, particularly those in the supply-management areas. As well, one producer position on the Commission should be rotational in the sense that a number of producers of different products will fill it, to ensure that all commodities are covered. To ensure objectivity, these producer members will not be board or agency members. Due to the amalgamation, it is felt that milk producers should be represented by two members on the Commission, one of whom will fill the rotational position when problems associated with the dairy industry are being discussed; the other could be a "full-time, part-time" member.
3. The Commission must continue to provide input from the public since decisions taken by boards can affect consumers directly.
4. The Commission must provide for input from the trade since they are directly affected by decisions taken by boards and agencies in a number of areas. This position may also be a rotational one to ensure representation from various segments of the processing industries.
5. Since one of the major responsibilities of the Commission will be to oversee the administrative programs of the various boards, there should be a position for an individual with experience in this area.

4.2 Composition of the Commission

It is proposed that the new Commission will consist of seven members as follows:

1. Chairman: full time government appointee acting as government's representative. His or her mandate:
 - a) to be responsible for long term development of the Commission;
 - b) to provide direction from a governmental policy standpoint to the Commission;
 - c) to liaise with administrative branches of government on behalf of the Commission;
 - d) to liaise with boards and agencies on behalf of the Commission.
 - e) to coordinate negotiations at the Federal level.
 2. Consumer representative: part time, appointed to monitor board and agency activity from the perspective of the consumer.
 3. Two producer representatives; part time, and between the two should, if feasible, have first hand knowledge of all supply management commodities. One of the two will act as Vice-Chairman of the Commission.
 4. One producer position; part time and rotational in the sense that more than one person can be appointed. Objective is to ensure that as many of the commodities under the Act as possible have representatives on the Commission.
- Note: Aside from the Chairman, producers will represent 50% of the Commission membership.
5. Trade representative; part time, whose mandate would be to monitor the activity of boards and agencies from the perspective of wholesalers, dealers, processors, graders. The individual should have particular experience with the supply management commodities. This position can be rotational in order to provide various processor groups, such as dairy, with representation.
 6. An independent with considerable experience in an administrative, legal or financial area.

While individual Commission members must at all times be aware of their mandate to represent different elements of the agri-food industry, their primary responsibility, collectively, is to monitor the administrative activities of all boards and agencies to ensure that these organizations are evolving in a way that conforms with government policy and the Farm Products Marketing Act.

4.3 Independent Appeal System

A major modification to the existing legislation concerns the handling of disputes between producer boards and the trade in areas where boards have been given certain powers, the most important of which is pricing.

It is proposed that such matters will become the responsibility of an independent tribunal. This change is being recommended for a number of reasons:

1. The most frequently raised objection from the trade, with the present method for settling pricing disputes between processors and producers, where producers fix the price, is that there is a bias within the Commission that favours the producer's view.
2. The Commission is finding it increasingly difficult to wear two hats in the sense that on the one hand it must act as an arbiter between producers and processors in resolving pricing disputes, while at the same time it is seen to be a government institution whose main purpose is to assist boards and agencies overcome their problems.

The tribunal would be comprised of three selected individuals, one of whom will be elected chairman, to be chosen from a panel of ten individuals. Members of the panel will be chosen on the basis of their abilities and experience in such areas as marketing and production, finance, administration, negotiation conciliation and arbitration, and law. It is envisaged that the tribunal will handle all appeals concerning price that presently fell to the Commission for resolution. Any dispute arising out

of the negotiation process requiring conciliation and arbitration will also be handled by members of the panel acting as conciliators. It is proposed that the tribunal derive its authority through the Farm Products Marketing Act. Changes are not required as far as selection of conciliators or arbitrators is concerned as the current legislation provides for this.

Any appeal concerning disputes between the trade and producers with respect to board or agency decisions that affect the competitive position of the buyers within the market place should also be handled by this tribunal.

The new Commission will be served by a Secretariat much the same as it is presently. However, it is expected that a more organized approach can be taken to providing the necessary level of service, once a review of staffing functions has been completed.

4.4 Commission's Leadership Role

Many of the problems facing marketing boards and agencies can be attributed to inadequate planning in the area of general policy development. It is intended that the Commission become more concerned in the future with establishing a basic policy framework within which fundamental guidelines and principles are defined in order that boards evolve in a more planned and predictable way.

The following areas in particular will require policy statements to be developed:

1. Commodity pricing
2. Quota Management
3. Financing and financial accountability
4. Administration; Board Management - Director responsibility
5. Short and long term planning, objective goals and strategies
6. Communication, including use of committees

The process by which this work is to be carried out will provide for consultation with the boards and agencies, but to a great extent would be dependent upon the leadership and direction of the Commission.

4.5 Review Recommendations

On the basis of the foregoing discussion, the following important recommendations are made:

1. It is recommended that the re-organized Farm Products Marketing Commission be responsible for the administration and supervision of all agricultural marketing and related regulation and legislation in the Province, and take an active and leading role in the development of organized marketing.
2. It is recommended that due to the amalgamation of the Dairy Products Commission and the Farm Products Marketing Commission, there be two members on the Commission representing milk producers, one of whom would be rotational and the other a full-time, part-time member.
3. It is recommended that the Commission provide input from the trade, because they are directly affected by decisions taken by boards and agencies, by appointing a rotational representative from the trade.
4. It is recommended that the resulting seven member Commission be established as follows:
 - a) Chairman - full-time
 - b) Two producer representatives; part-time, one to act as Vice-Chairman
 - c) One rotational producer representative
 - d) One consumer representative
 - e) One trade representative (can be rotational)
 - f) One independent
5. It is recommended that the legislation be amended to provide for an independent appeal tribunal to adjudicate disputes between trade and producers.

CHAPTER 5

NEW BRUNSWICK CROP INSURANCE COMMISSION5.1 Historical Background

The Federal Crop Insurance Act was passed by Parliament in 1959, authorizing the Federal Government to make grants and loans to Provincial Governments for the purposes of crop insurance. The main functions and responsibilities of the Federal Crop Insurance Division under a Federal/Provincial cost-sharing agreement, is to provide the following services:

- 1) fulfillment of financial obligations for sharing premium and administrative costs for loans and for reinsurance under Federal-Provincial cost-sharing agreements;
- 2) central co-ordination of a policy directed towards the development and extension of crop loss insurance for Canadian farmers;
- 3) assistance to provinces in developing, amending and promoting their crop insurance programs; and,
- 4) research and actuarial studies related to premium rates and crop insurance coverage.

The New Brunswick Crop Insurance Act was passed in 1966 as enabling legislation with respect to the Federal Act. However, no action was taken until 1974, when the Act was proclaimed and the regulations for operation of the New Brunswick Crop Insurance Commission were approved by the Lieutenant-Governor in Council.

5.2 Administrative Structure

The Commission is a body corporate and has all the powers conferred on a company under subsection (1) of section 14 of the Companies Act. It consists of five members appointed by the Lieutenant-Governor in Council, one of whom is appointed as chairman and another as vice-chairman. Members hold office for three years and are eligible for reappointment. A quorum is constituted by three members if the chairman or vice-chairman is present.

A general manager and other staff may be appointed under the Civil Service Act but these are presently employees of the Department of Agriculture which also is responsible for the Commission's budget. Theoretically, the Commission is directly responsible to the Minister of Agriculture, but since its creation has been part of a line branch of the Department and, in practice, has only been indirectly responsible to the Minister with a number of layers of bureaucracy in-between.

In addition to the Commission, there is a Crop Insurance Arbitration Board composed of three members appointed by the Lieutenant-Governor in Council. The Board has sole jurisdiction to hear and determine all disputes between the Commission and a insured person arising out of the adjustment of a loss under a contract of insurance, and has been called upon to do so from time to time.

5.3 Powers Under the Act

In undertaking and transacting crop insurance, the Commission has powers to:

- 1) administer crop insurance plans to establish the terms and conditions thereof;
- 2) conduct surveys and research programs relating to crop insurance;
- 3) evaluate and determine crop losses and pay claims under any plan;
- 4) require an applicant for crop insurance or an insured person to furnish such information, statements and reports as the Commission may require;
- 5) enter into agreements with or retain persons for the soliciting and receiving of applications for insurance, the collecting of premiums and the adjusting of claims under plans for and on behalf of the Commission;
- 6) exercise such powers and perform such duties as are conferred upon it under the Regulations;
- 7) re-insure with any other insurer the risk or any portion thereof under a contract; and
- 8) Make such by-laws as may be necessary for its operation.

5.4 The Activities of the Commission

In this section, the overall activities and operation of the Commission are discussed. However, the individual crop insurance plans, per se, are not analyzed as this aspect is outside the context of this report.

1. The Growth of Crop Insurance:

The crop insurance program commenced in 1974, but had little success in the early years due to ultra conservative insurance policies which offered unsuitable coverage and were unduly expensive. It was not until 1980, that the program took off when a new management and sales team completely revised the insurance plans offered to farmers. There are presently five plans covering the following crops; apples, strawberries, potatoes (seed, table, processing, and export), spring grains and processed vegetables (commencing 1983/84). The growth of the program, since its inception, in terms of the number of contracts, acreage insured and coverage is given in table 6 and clearly demonstrates the success achieved over the past four years. Information on the coverage of individual crops for the 1983/84 season is given in table 7. The growth in potato insurance has been particularly outstanding since the plan was tailored to meet the needs of producers; in 1979, only 4 policies were sold covering 187 acres while in 1983, 213 policies were sold covering 23,618 acres; i.e. approximately 45% of total plantings.

2. Program Costs

The crop insurance program is dependent upon the Federal/Provincial cost-sharing agreement. Under the terms of the agreement, the Federal Government contributes fifty percent of the total premium with the producers paying the other half, and the Province pays for the administration of the program. The cost figures for the past three years are given in table 8.

In addition, since 1982/83, the cost of liability re-insurance with the "Re-insurance Fund of Canada for New Brunswick" has been paid by the Province. This normally amounts to 15 percent of the total premium collected.

TABLE 6.
Growth in Crop Insurance 1974/75 to 1983/84

<u>Year</u>	<u>No. of Contracts</u>	<u>Insured Acreage</u>	<u>Coverage \$</u>	<u>Total Premium \$</u>	<u>Indemnities \$ (Claims)</u>	<u>No. of Claims</u>
1974-75	182	N/A	563,101	55,975	325,000	N/A
1975-76	218	N/A	964,522	65,440	40,362	N/A
1976-77	183	4,128	741,955	34,451	59,040	N/A
1977-78	117	3,687	N/A	51,856	143,971	N/A
1978-79	125	2,830	N/A	36,112	72,612	N/A
1979-80	104	1,871	392,954	45,912	112,484	48
1980-81	278	16,779	6,895,772	642,195	731,179	111
1981-82	395	20,350	8,430,946	812,871	362,781	95
1982-83	344	20,221	9,655,146	913,868	2,944,976	147
<u>1983-84</u>	<u>489</u>	<u>34,385</u>	<u>19,829,739</u>	<u>1,998,474</u>	<u>2,075,731</u>	<u>181</u>
Total	2,435	---	47,474,135	4,657,154	6,868,135	872

TABLE 7.
Insurance Coverage by Crops 1983/84

<u>Insured</u>	<u>No. of Farmers</u>	<u>Acreage</u>	<u>Coverage \$</u>	<u>Total Premium \$</u>	<u>Indemnities \$ (Claims)</u>	<u>No. of Claims</u>
Apples	14	256	157,038	10,100	1,680	1
Strawberry	44	362	257,263	30,336	47,457	23
Potatoes	213	23,618	20,021,188	1,804,012	1,970,583	124
Processing Beans	12	389	98,233	11,788	16,396	9
<u>SPRING GRAIN:</u>						
Barley	59	3,186	340,500	40,255	25,513	12
Mixed Grain	6	131	10,312	1,379	266	1
Wheat	39	1,623	186,952	21,040	9,227	4
Oats	<u>99</u>	<u>4,212</u>	<u>288,552</u>	<u>33,365</u>	<u>4,610</u>	<u>8</u>
SUB TOTAL	<u>203</u>	<u>9,152</u>	<u>826,316</u>	<u>96,038</u>	<u>39,616</u>	<u>25</u>
TOTAL	<u>486</u>	<u>33,757</u>	<u>21,360,038</u>	<u>1,952,275</u>	<u>2,067,926</u>	<u>182</u>

TABLE 8.

Cost Sharing of Crop Insurance Program, \$

<u>Year</u>	<u>Federal Contribution</u>	<u>Farmer Payments</u>	<u>Provincial Costs</u>
1981/82	406,500	406,500	141,000
1982/83	457,000	457,000	200,000
1983/84	976,000	976,000	200,000

3. Federal-Provincial Relations:

The Commission, technically, has all the powers and authority required to conduct a successful crop insurance program. However, its ability to serve its producer clientele is restricted by the limited resources it can apply to satisfying the requirements of the Federal/Provincial Agreement.

Initially, the Commission offered unsuitable insurance plans to producers, but this failing was corrected and the first principle of insurance is now being achieved; that of increasing participation and thus spreading the risk. In recent years, however, the Federal administration has become more demanding through stricter enforcement of the regulations under the Canada Crop Insurance Act. This has slowed revision to existing insurance plans and the introduction of new ones as the Commission does not have the resources to conduct the background research required to prepare valid proposals. The Commission is, therefore, often unable or slow to evaluate requests from producer organizations for new or expanded insurance coverage within a reasonable time. This slow response is restricting the development and delivery of the program.

Another aspect of current federal policy is to have plans as uniform as possible across the country, which is not consistent with the original idea of designing plans to suit local

conditions. This approach does not recognize the advantage of having some variability in new plans to enable the Provinces to design insurance to suit the circumstances of their clientele, provide wide appeal and thus achieve successful implementation. However, in the past, this has not been without problems from the Federal point of view. Items approved for one Province have subsequently appeared attractive to other Provinces who have applied for revision to their plans, although their circumstances have been different and may not warrant the inclusion of such coverage.

The overall Federal/Provincial concept for crop insurance is sound. The federal financial contribution is required to equalize the program's cost and to provide back-up for disaster situations. The Provinces have been assigned the role of drafting plans and administering the program due to their knowledge of local conditions. But the program is not working as well as it should. The need for a strong federal role and the duty to protect public funds is fully acknowledged, but there must also be an equally strong provincial input by the Crop Insurance Commission to achieve the objectives of the program. The combined producer and provincial government financial contributions are greater than the federal contribution and the Commission should have an equal voice in determining the final format of insurance plans. Nevertheless, the Provincial Government has an obligation to provide the Commission with adequate resources to enable it to fulfill its role under the agreement and to conduct its administrative tasks according to federal requirements. This is not presently the case as described in the following section.

4. Administrative Capability

The crop insurance program is unlike any other services of the Department of Agriculture and most other provincial government administrations. It is a business, and with a coverage of nearly \$22 million in 1984/85, it is becoming big business, and should

be operated as such. However, the administrative arrangements and resources with which it works preclude it from doing so.

Most of the Commission's administrative problems arise from the fact that it operates as a Section in a line Branch of the Department of Agriculture. This type of organization is in contrast to all other Commissions in Canada except British Columbia, which also operates as a Branch of the Department. The latter is currently under intensive review, and organizational changes are anticipated.

The other eight provincial Crop Insurance Commissions operate as relatively independent organizations. Typically, the staff of these Commissions' are housed separately from the remainder of the Department, they report directly to the Minister on policy matters, and most importantly have their own bank account and issue their own cheques.

Section 6(1) of the Regulation 83-29, under the New Brunswick Crop Insurance Act reads as follows:

"All premiums received in respect of a policy, including the contribution by the Government of Canada under the Crop Insurance Act, Chapter C-36 of the Revised Statutes of Canada, 1970, and by the Province under the Act, shall be paid into a reserve fund for the payment of indemnities, which fund shall be deemed to be part of the Consolidated Fund."

By contrast, the funding arrangements of the Nova Scotia Commission, which are typical of the other eight Commissions, reads as follows:

"7(1) There is hereby established a fund which shall be known as the "Crop and Livestock Insurance Fund", which shall be in the custody and control of the Commission on behalf of Her Majesty in right of the Province.

(2) The Minister of Finance and Economics, with the approval of the Governor in Council and on the written requisition of the Minister, may advance to the Commission from time to time, for use as working capital, without legislative authority or

appropriation other than this Act, such sums as may be stated in the requisitions.

- (3) The Minister of Finance, on the written requisition of the Minister, shall pay to the Commission in each year the amount determined to be the cost of administering this Act during that year such payment to be made out of the Consolidated Fund with money authorized by the Legislature or the Governor in Council.
- (4) The Commission shall credit to the Fund
 - (a) the moneys advanced under subsection (2);
 - (b) the moneys paid under subsection (3);
 - (c) the amount of all premiums received;
 - (d) any amount received from the Government of Canada for the purpose of this Act; and
 - (e) all other amounts received by the Commission for the purposes of this Act.
- (5) The Commission shall deposit and keep all amounts credited to the Fund in a chartered bank.
- (6) The Commission shall administer the Fund and pay therefrom all amounts required by this Act to be paid there from, together with the costs of administering this Act including, notwithstanding any other Act, the salaries of the executive secretary and of all other persons engaged in the administration of this Act.
- (7) If any employees of the Commission are, or become, employees within the meaning of the Public Service Superannuation Act, the Commission shall pay from the Fund in respect of those employees the contributions required to be made by the Minister of Finance and Economics under the Public Service Superannuation Act; and the Commission shall also make, in respect of those employees, the deductions from the salaries required under the Act and remit the amount thereof to the Minister of Finance and Economics who shall pay it into the Fund under that Act.

- (8) Notwithstanding any other Act, but subject to subsection (10), the moneys in the Fund do not form part of the Consolidated Fund, and the Fund is not a division or part of the Consolidated Fund but the moneys therein are the property of Her Majesty in right of the Province.
- (9) The Commission shall pay to the Minister of Finance and Economics for investment for the Commission any moneys in the Fund not immediately required for expenditure; and the Minister of Finance and Economics may invest the moneys in securities in which under the Provincial Finance Act moneys in the Consolidated Fund may be invested.
- (10) Moneys paid to the Minister of Finance and Economics for investment pursuant to subsection (9) shall form a trust or special fund and the interest earnings thereon shall be credited to the account of the Commission; and such earnings, either alone or with the principal sum invested for the Commission by the Minister of Finance and Economics hereunder, or any part thereof, shall be paid over to the Commission by the Minister of Finance and Economics on the request of the Commission."

It is apparent from the foregoing that other Commissions in the country are governed by regulations which permit them to operate in a businesslike manner.

Amending the New Brunswick regulations to conform to the above would improve the efficiency of the Crop Insurance Commission by:

- 1) giving the General Manager the authority to hire casual/contract personnel as required within the limit of the approved budget;
- 2) permitting the payment of refunds or indemnities without the present delays;

- 3) enabling the Commission to quickly identify N.S.F. cheques received in payment for premiums;
- 4) avoiding constantly recurring budget problems which arise since it is impossible to estimate farmer demand for coverage and/or claims due to weather conditions;
- 5) indicating to the farmer client that an indemnity is paid out of the same fund to which he paid his premium;
- 6) permitting the General Manager to have access to private translation services when in-house translation services are overloaded and causing delay in the approval of regulations or amendments thereto to the detriment of the Insurance Program.

5. Staffing

It is apparent that the Commission is currently understaffed. The rapid increase in growth has been documented, and there is an increasing demand for additional Crop Insurance coverage. Yet there has been a reduction since the General Manager has, for over three years, covered off the duties of Manager of the Grain Commission, as well as his own duties.

Staffing does not necessarily come within the scope of this report, but it is apparent that the current staffing restrictions have come about because of the position of the Commission within a Branch of the Department. The Commission staff have suffered the restraints applied to the Branch and Department despite the fact that its role is different and has been rapidly expanding. The role is to administer a joint program involving the Federal Government and the agricultural producers of the Province. Since the latter two have indicated, by their financial inputs, their willingness to expand the program, it would appear inappropriate for the Province to restrain the program by failing to provide adequate administrative staff.

It is suggested that the staff requirements of the Commission would be more accurately identified and recognized if it operated as a separate and distinct unit.

6. The Commission

The Crop Insurance Commission has extensive powers under the Act, these are detailed in section 6.3 of this chapter. However, it has become apparent that the ability of the Commission to exercise these powers is severely limited since the size of the staff to do the work of the Commission is controlled by other forces within the Department.

The change put forth in this report visualizes a higher profile Commission, exercising greater authority over its affairs. Certainly, the role of the Chairman must be a more dynamic one than has been the case in the past.

It is visualized that the Chairman will:

- a) chair all meetings of the Commission;
- b) meet frequently, or at least monthly, with the General Manager to remain familiar with all aspects of the program and individual crop plans;
- c) attend Federal-Provincial meetings as spokesman for the Commission and the producer clientel;
- d) take an active role in the budget process;
- e) meet as frequently as necessary with the Minister to keep him informed of the problems and progress of the program and to present and defend the financial and staff support required by the Commission.

It may be difficult to find an active farmer who could take the time to schedule the above functions. Alternately, the Minister could appoint a competent person who is knowledgeable about the agricultural industry. The Chairman should not, however, be an employee of the Department. The Chairman and the Commission should be at "arms length" from the Department.

To allow for a non-farmer Chairman while ensuring that major producer groups are farmer represented, as well as allowing for linguistic group representation, it is proposed that the Commission be increased from five to seven members.

5.5 Conclusions

The review of the Crop Insurance Commission leads to the following conclusions:

1. The insurance plans and policies of the Commission have now been established on an effective basis as witnessed by the considerable growth in insurance coverage over the past four years.
2. The development of additional and improved insurance plans is presently handicapped by the inability of the Commission to respond to the demands of the Federal Crop Insurance Division due to lack of adequate resources.
3. The volume of business conducted by the Commission has grown from less than one-half million to nearly twenty-two million dollars coverage, over five years.
4. The growth has revealed that the present organization of the Commission as a Section within a line Branch of the Department is inappropriate for the efficient conduct of a business operation.
5. A review of other Crop Insurance Commissions in the country reveals that all but one operate as relatively independent units whose major features are that:
 - a) they report directly to the Minister;
 - b) they conduct their financial dealing through a separate bank fund which is not part of the Consolidated Fund.
6. Appropriate amendments to current regulations would enable the Commission to deal more effectively with the staffing, budgetary, and financial transaction problems;
7. The expanded role visualized for the Commission requires at least two additional members and a Chairman who can devote considerably more time to Commission affairs than has been the case in the past.

5.6 Recommendations

It is recommended that:

1. Section 6(1) of Regulation 83-29 under the Crop Insurance Act be deleted and replaced by a section which approximates that of Section 7(1) to (10), Chapter 6 of the Nova Scotia Crop and Livestock Insurance Act. (This is detailed in Section 5.4 (4) of this report.)
2. Sub-section 3(2) of Regulation 83-29 be amended to permit the appointment of a seven member Commission instead of the present five.
3. Upon appointment, the Minister detail the duties and responsibilities expected of the Chairman of the Commission.
4. Immediate steps be taken to restore the General Manager's role to full time on behalf of the Commission.

NEW BRUNSWICK GRAIN COMMISSION6.1 Historical Background

In August 1979, a "Grain Industry Planning and Steering Committee" was set up by the Department of Agriculture with wide representation from grain producers, the trade, federal and provincial organizations. The terms of reference for the committee, which was given seven months to complete its task, were to:

"Provide a forum to examine and review the New Brunswick Grain Industry, identify opportunities and constraints, improve understanding and cooperation between all segments of the industry, formulate guidelines for the production, transportation, storage and marketing of grain, and make recommendations on Government programs, policies and legislation."

The committee finalized its recommendations at a meeting on 20 February 1980, and the most significant of these was that a "Commission with Restricted Powers" be established. The term restricted powers was defined as meaning "the role of the Commission will be confined to providing non-commercial service-related marketing and development activities plus regulatory guidelines to primary grain producers and the grain trade generally. It will not own or operate grain handling or storage facilities nor will it become involved in grain buying or selling activities." The committee also provided recommendations on a further twelve topics as follows; production priorities, transportation, feed freight assistance, farmer organizations, research and extension, pedigreed seed, grain utilization, storage and processing, inter-provincial cooperation, seed testing, spring weight restrictions and a transfer elevator at Saint John.

The main recommendations were approved by the Minister of Agriculture and as a result, legislation was drafted and the New Brunswick Grain Act was passed by the legislature in 1981. The purposes of the Act are stated to be:

- 1) To provide for the effective development of New Brunswick's grain industry;
- 2) To promote, control and regulate the production and marketing of grain;
- 3) To add order and stability to the grain industry of the Province; and
- 4) To establish and maintain standards of quality for grain and to regulate handling to ensure a dependable commodity for markets.

6.2 Administrative Structure

The Commission is a body corporate and has all the powers conferred on a company under subsection (1) of section 14 of the Companies Act. It consists of seven members appointed by the Lieutenant-Governor in Council. Four members are producers, from whom both the chairman and vice-chairman are appointed, one member is a representative of the Atlantic Division of the Canadian Feed Industry Association, one member is a representative of the pedigreed seed trade and one an employee of the Department of Agriculture. The appointments are for terms of four years. A quorum is constituted by four members and a vacancy on the Commission does not impair the right of the remaining members to act.

The Commission is responsible to the Minister for the administration of the Act. The Minister may appoint from within the Department of Agriculture a secretary/manager and other officers and employees as are necessary for the Commission to conduct its duties. The present staff consists of a part-time manager, one grain inspector and a part-time secretary, which is considered adequate provided that support is received from the Market Development Branch of the Department of Agriculture.

6.3 Powers Under the Act

In conducting its responsibilities in regard to the production and marketing of grain, the Commission has the powers to:

- 1) investigate, arbitrate, adjudicate upon, adjust or otherwise settle any dispute between producers, processors, dealers, distributors or transporters of grain;
- 2) investigate the cost of producing, processing, distributing and transporting grain, prices, price spreads, trade practices, methods of financing, management, grading, policies and other matters;
- 3) require persons engaged in the production or marketing of grain to register and furnish such information as the Commission requests;
- 4) require the furnishing of security or proof of financial responsibility by any person engaged in the marketing of grain and provide for the administration and disposition of all such money or securities;
- 5) require persons before commencing or continuing in the production or marketing of grain to obtain licences from the Commission;
- 6) fix and collect licence fees or charges for services rendered by the Commission and for this purpose to classify such persons into groups, and recover any such licence fees and charges by suit in court of law;
- 7) co-operate and act conjointly with any Canadian or provincial board;
- 8) establish grain grades and standards and implement a system of grading and inspection to reflect adequately the quality of that grain and to meet the need for efficient marketing;
- 9) establish and apply standards and procedures regulating the production, handling, transportation and storage of grain and the equipment, vehicles and facilities used therein;
- 10) conduct investigations and hold hearings on matters within the powers of the Commission;

- 11) regulate the time and place at which, and the agency through which, grain shall be marketed;
- 12) conduct pools for the distribution of money received from the sale of grain, and, after deducting all expenses, distribute the remainder of the money so that the payment to each person entitled to share is based on the amount, class, variety and grade of the grain delivered by him, and make an initial payment on the grain and subsequent payments until the remainder of the money received from the sale is distributed;
- 13) require the price or prices payable or owing to persons for grain to be paid to or through the Commission and recover such price or prices by suit in a law court;
- 14) regulate the manner, quality, class, variety or grade in which grain may be marketed;
- 15) Prohibit in whole or in part the marketing of any quality, class, variety or grade of grain;
- 16) inspect any container, vehicle, elevator or place where grain may be found and take samples of grain found therein;
- 17) notwithstanding the Financial Administration Act, use in paying the expenses of the Commission any money received by the Commission;
- 18) designate additional grains to which the Act shall apply;
- 19) make such orders as are necessary to carry out its mandate.

This is a very wide range of powers as it includes all the authorities that might be required by a grain marketing board, and it is unlikely that the Commission will require the majority of them for many years.

6.4 The Activities of the Commission

Early action was taken to arrange for all commissioners, at intervals, to undertake a one week course at the Canadian International Grain Institute in Winnipeg to thoroughly familiarize them with the Canadian grain industry.

In developing the first stage of its program in late 1981 and early 1982, the Commission reviewed the major constraints faced

by the provincial grain industry and separated out those falling within its mandate. These were then listed in order of priority, as given below, on the basis of the areas requiring immediate attention and for which programs should be developed or action taken.

- 1) Grade Standards
- 2) Crop Advance Payment
- 3) Grain Dealer Registry
- 4) Florenceville Grain Terminal
- 5) Pedigreed Seed Policy
- 6) Grain Producer Communication
- 7) Market Information System
- 8) Grain Transportation

The progress achieved by the Commission in these areas during its short existence are described in the following sections.

1. Grading of Feed Grains:

From the outset, the Commission has placed an emphasis on establishing grain grades and introduction of the grading of feed grains on a voluntary basis. This commenced in 1982, with trials in Carleton and Victoria Counties where grades were assigned to 280 loads (approximately 1,880 tonnes) of wheat, barley and oats and the producers advised of the results. A training program was also provided at four locations for grain elevator staff.

In 1983, the program was expanded and a total of 668 loads (approximately 4,500 tonnes) of feed grains were voluntarily graded at elevators in five locations; Hartland, Florenceville, Grand Falls, Rogersville, and Sackville. Farmers were advised of the grade of their grain at time of delivery, and the concept of grain quality was actively promoted through brochures, demonstrations and presentations at grower meetings. The Feed Trade was encouraged to buy grain on the basis of grade and the Commission settled some grade-related disputes. A centralized grain lab was set up at the Department of Agriculture in Fredericton, to facilitate analysis of grain quality, arbitration and training.

2. Florenceville Terminal and Grain Pooling

The Florenceville Grain Storage Terminal was built by the department of Agriculture in 1975 and until mid-1983, was operated by Carleton Cooperative on behalf of the Department. The Grain Commission was asked to review operating procedures in 1982, and recommendations were made for improvements in the operational policy. Following further study, the Commission recommended a major revision to the status and operation of the facility and as a result, the facility became incorporated as the Florenceville Grain Centre in August 1983.

Five individuals were appointed to the Board of Directors by the Minister for an initial period of one year; three producer representatives (including the president and vice-president) one representative from the Department of Agriculture (secretary) and one representative from the Commission (treasurer). The shares of the company remain the property of the Province in the person of the Minister of Agriculture. In addition, a new manager was hired to operate the facility and an accountant retained to set up a financial management system. The Commission has acted in an advisory capacity and worked in close cooperation with the Board of Directors.

During the first season of operation under the new system, all grains received were graded and pooled for sale on a grade basis. The Centre was open six days a week at harvest time, with extended hours as required. A storage service trial and a cleaning/drying service trial were also offered to farmers. Nearly 2,200 tonnes (92,000 bushels) of wheat, barley, oats and rye were handled, representing a turnover of 1.15, and all of this grain was sold. But, so far, the company has not been successful in developing markets for imported feed grains, which is essential for obtaining a minimum turnover of three times capacity to achieve viable year round operation or until such time as local production can fill this gap. Consequently, the plant remains empty for eight months of the year.

The Commission has tried to ensure that the Grain Centre operates under the same conditions as private elevators, especially in terms of government inputs. Funding for operational expenses was obtained from Scotiabank, using a Farm Adjustment Board Guarantee to cover one-half of the line of credit, while liens on stored grain and accounts receivable covered the balance. By the end of January, 1984, all bank loans had been fully repaid.

The total cost of operation for the period August 1, 1983, to July 31, 1984, is estimated at \$52,647 or \$24.15 per tonne handled.

A financial summary of pool payments is given in Table 9.

TABLE 9

Summary of Grain Pool Payments

<u>Grain</u>	<u>Volume</u>	<u>Initial Payment</u>	<u>Interim Payment</u>	<u>Final Payment</u>
		<u>Per Tonne</u>	<u>Per Tonne</u>	<u>Per Tonne</u>
Winter Wheat	146	\$126.73	\$22.00	\$ 6.05
Sping Wheat	701	126.73	19.14	9.86
Barley	1066	110.20	7.04	7.50
Oats	67	93.67	9.68	38.20
Rye	199	110.20	0	2.01

The interim payments and any final payments represent additional returns to the farmers using the pool over those received by many growers selling grain outside the pool. These results will likely stimulate considerable interest in the initiation of additional pools at other elevators and/or by grower groups. While this is a positive influence towards the development of more organized grain marketing, the Commission is concerned that it may be required to impose regulations on the industry to ensure the proper financial assessment of pool costs

and returns, and to protect farmers equity in pools by making bonding and insurance coverage mandatory. This concern is based on an understandable reluctance to introduce government regulatory measures until the need is clearly demonstrated, and the fact it must be assured of the necessary resources to enable it to administer such a program.

Future policy in regard to the Florenceville Grain Centre raises the question as to whether government should be involved in the ownership of such a facility at all. In the short-term, there are advantages to retaining ownership as this will assist the Commission to obtain the required cooperation for trial and demonstration of new techniques for the benefit of producers. But, in the longer-term, it may be advisable to plan for increasing producer financial involvement and eventual takeover.

3. Other Activities:

Other activities conducted by the Commission have been as follows:

- 1) A voluntary grain dealers registry, now totaling twenty-seven, was established in 1982. Apart from other factors, this enables the collection of confidential information on grain handling and storage facilities and volume through-put of local and imported grain.
- 2) A mailing list of nearly 1,400 grain producers and members of the grain industry has been compiled and computerized, and a bilingual "Grain Newsletter" published and circulated since early 1983.
- 3) The Commission has worked closely with the two regional grain growers organizations on matters relating to grain quality, marketing and organization. It also sponsored the President of each organization to attend the "Farm Leaders' Course" given by the Canadian International Grain Institute.

- 4) Operational policies and procedures for the Florenceville Grain Centre have been developed in conjunction with the Board of Directors.
- 5) In response to a field survey in 1983, a voluntary phytosanitary program has been initiated in cooperation with the Canadian Grain Commission and the Provincial Department of Agriculture. The purpose is to identify and control insect pests in grain storages and processing plants.
- 6) The Commission is an active member of the Atlantic Grains Council and has endeavoured to keep up-to-date on issues and concerns in other provinces and at the national level. In addition, it hosted a Maritime meeting of Grain Commissions and marketing organizations to discuss provincial and inter-provincial problems related to grain marketing.
- 7) The Commission has actively participated in reviews of:
 - the provincial "Grain Transportation Policy" to assess its usefulness and to document the flow of feed grain off the farm. This program, administered by the Farm Adjustment Board, provides a subsidy on intra-provincial movement of locally produced feed grains and in the 1983/84 fiscal year, when the regulations were adjusted, cost \$72,835 for the movement of 11,059 tonnes.
 - the feasibility of the grain producer associations taking advantage of the Federal Crop Advance Payment Program.
 - the type of policies required for support of the pedigreed seed industry.

6.5 Conclusions

The task faced by the Commission is not an easy one considering the relatively small size of the New Brunswick industry (1977-1981 average of 70,000 acres of grain yielding 55,000 tonnes) and the absence of any past regulation or organization within the industry. Considering the scant three years of operation and the very limited resources placed at its disposal, the Commission has made as much progress as could be expected of it.

The purpose of the Grain Commission is very different from that of the other commissions in that its major role, at this stage, is developmental and not regulatory. In many respects this is part of the overall problem that the Commission faces in that it operates from a position of isolation, has little clout within the government hierarchy, does not receive the input it requires from the Department of Agriculture and yet it has wide ranging powers that it is not in a position to use at present and many of which may not be required for years to come, if at all.

The foremost problem confronting the Commission is lack of clear definition of its functions in relation to those of the Department of Agriculture. In spite of the purposes of the Commission, as stated under the Act (reference section 6.1), the Department, through its Plant Industry Branch, has to be responsible for all aspects of the production of grain crops. It also, through the Market Development Branch, should be responsible for the development of grain markets, and for carrying out the organization of grain marketing, in cooperation with the producers; and through its Regional Offices, should be responsible for grain extension programs and the grain producer associations.

However, in order to define these roles satisfactorily and clearly allocate responsibilities, it is first necessary to have an agreed provincial grains policy. This has to be a dual role of both the Commission and the Department, with medium and long-term goals established, priorities set and approval given by

the Minister. In conducting this exercise, three basic principles need to be applied from the viewpoint of the Commission in order to maintain uniformity with the role of the Farm Products Marketing Commission.

- 1) Responsibility for the groundwork and promotion for introduction of organized marketing should lie with the producers in cooperation with the Department. The role of the commission only commences once it has received an official request from a group of producers for the introduction of a marketing plan.
- 2) The Commission should have full responsibility for keeping abreast of and analyzing national policy developments and for the presentation and promotion of New Brunswick interests at this level.
- 3) The Commission should exercise no jurisdiction over grain production until such time as production controls are required for specific market circumstances, which is unlikely to occur in the foreseeable future.

From the foregoing, it would appear that the main functions of the Commission will be in regard to quality control, grain pooling, supervision of organized marketing, trade matters, maintenance of a profile of the provincial grain industry and presentation of New Brunswick interests at the national level. Once the functions have been clearly defined within the framework of an agreed grains policy, the Commission should be allocated adequate resources to carry out its responsibilities and receive assurance that the Department will adequately fulfill its role.

6.6 Recommendations

- 1) It is recommended that a provincial grains policy be established with medium and long-term goals.
- 2) It is recommended that the functions and responsibilities of the Commission, within an agreed grains policy, be clearly defined in relation to those of the Department of Agriculture.
- 3) It is recommended that, as a starting point for 2) above;
 - a) Responsibility for the groundwork and promotion for introduction of organized marketing lie with the producers in cooperation with the Department. The role of the Commission should only commence once it has received an official request from a group of producers for the introduction of a marketing plan.
 - b) The Commission have full responsibility for keeping abreast of and analyzing national policy developments and for the presentation and promotion of New Brunswick interests at this level.
 - c) The Commission exercise no jurisdiction over grain production until such time as production controls are required for specific market circumstances, which is unlikely to occur in the foreseeable future.

CHAPTER 7

THE ROLE AND RESPONSIBILITIES OF THE
MINISTER OF AGRICULTURE AND THE DEPARTMENT OF AGRICULTURE

Historically, the Minister and the Department of Agriculture have played an active role in establishing agricultural commissions in New Brunswick. The Minister's role has been one of developing policies and plans and then having them approved by Government under the following Acts: The Dairy Products Act, Farm Products Marketing Act, Grains Act and the Crop Insurance Act. On the other hand the Department has been very active in implementing the policies and programs of these commissions. A major responsibility of the Department has been in providing the necessary budget and staff resources that are required by the agricultural commissions.

7.1 Minister of Agriculture

The Acts which provide the authority for establishing the Commissions, as listed above, provide that they report directly to the Minister of Agriculture. Although the Commissions are responsible to the Minister for the administration of the legislation for matters such as establishing marketing plans, regulations and appointments to the Commission, the Minister's major responsibility is to recommend appointments and policies for the consideration of the Lieutenant-Governor in Council.

1. Farm Products Marketing Commission

A major responsibility of the Minister in respect to the Farm Products Marketing Commission is to consider recommendations from the Commission concerning the establishment of marketing boards or agencies or amendments to the existing marketing plans. After the Minister has approved the plan, the next step in the process is for him to present proposed plans and regulations for the consideration of the Lieutenant-Governor in Council. After these

are approved by Government, it is then the responsibility of the Commission to supervise implementation through the various commodity boards that have been established under the Act.

The usual procedure is for producers to place a request for new regulations or new plans or changes in regulations or plans to the Commission. Where the Commission receives a request from a group of producers who market a farm product that a local board be established to promote, control and regulate marketing of that product, the Commission, if it is of the opinion after investigation that such a group is fairly representative of producers who market the product, may recommend to the Minister that a local board be established and the Commission may prepare a plan with respect to that farm product.

2. Dairy Products Commission

The New Brunswick Dairy Products Commission is responsible to the Minister of Agriculture for the administration of the Dairy Products Act. Although the Commission is responsible to the Minister, it is delegated many powers by the Lieutenant-Governor in Council to directly implement various regulations and orders. For example, the Act authorizes the Commission to appoint inspectors; to supervise, control and regulate in the Province the purchase, transportation, handling, conversion, preparation, storing, delivery, sale and distribution of milk and cream as well as the care and collection of milk.

Similar to the Farm Products Marketing Commission, the powers are delegated directly to the Dairy Products Commission rather than to the Minister, but the role of the Minister is to make sure that these powers are properly used to carry out the policy intentions of the Act and the regulations.

3. Crop Insurance Commission

The Minister of Agriculture's major responsibility respecting crop insurance is to enter into and carry out crop insurance agreements in the Province in conjunction with the Federal Minister of Agriculture. It is necessary for the Minister to be authorized by the Lieutenant-Governor in Council to enter into and carry out crop insurance agreements with the Federal Government. The Minister of Agriculture is required to obtain approval of regulations from the Lieutenant-Governor in Council with respect to the establishment, setting up and administration of crop insurance in the Province.

4. New Brunswick Grain Commission

This Commission is responsible to the Minister of agriculture for the administration of the N.B. Grain Act. Other specific responsibilities of the Minister are to appoint a person working for the Department of Agriculture as Manager of the Commission, and he may also appoint such other officers and provide such employees as are necessary to enable the Commission to carry out the purposes of and to exercise its powers under the Grain Act. The legislation provides powers directly to enable the Commission to provide for the effective development of the N. B. grain industry.

7.2 Department of Agriculture

1. Farm Products Marketing Commission

In the Farm Products Marketing Act it is stated that one person on the Commission will represent the Department of Agriculture. Although not specified in the act, the department does carry out important responsibilities respecting the operation of the Commission. The most important is providing the secretariat and support services through the Market Organization and Inspection Branch of the Department. In addition, through the Department's regional Offices, information

is provided to farm organizations concerning how marketing boards can be organized and established under the Farm Products Marketing Act.

2. Dairy Products Commission

Although the Commission is directly responsible to the Minister of Agriculture for the administration of the Dairy Products Act, the Department, through its Market Organization and Inspection Branch, provides all the support services and staff for the Commission to carry out its responsibilities. These include the Secretary-Manager, auditors, inspectors, and a central milk testing laboratory.

3. Crop Insurance and Grain Commission

The Department of Agriculture provides the support and staff for the operation of the two Commissions. This is provided through the Market Organization and Inspection Branch of the Department. In addition, the grain Act provides for one member on the Commission who is employed with the Department of Agriculture.

7.3 Present Situation

From the above description, it is clear that the operation of all four Commissions is well integrated with the Department of Agriculture. In fact, all staffing and support services are provided by the Market Organization and Inspection Branch of the Department.

In the course of this review, a question has been raised, particularly by the persons involved in manufacturing and processing: Should these Commissions, responsible to the Minister, be so closely integrated with the department? It is claimed that an agency such as the Farm Products Marketing Commission or the Dairy Products Commission, who have to arbitrate disputes between producers and processors, to be objective, should operate more at "arms length" from the Department than is the case at the present time.

It is clear that the mandate of the Department is to primarily assist farmers in various aspects of development throughout the Province. In other words, the Department's main role is working with farmers so they can improve their incomes on all aspects of production and marketing. Of course, Commissions are designed to provide assistance to the farming community, but on the other hand there are certain instances where they are required to also adjudicate disputes between producers and processors, and in the case of the Crop Insurance Commission, to settle claims. Therefore, in these adjudicating and regulatory roles, the staffing and support services should be clearly separated from the departmental operations. This would mean that the relevant staff would still be employed under the provisions of the Civil Service Act, but they would work directly for the Commissions rather than for a branch of the Department of Agriculture.

On this subject the "Foucher Report", prepared for S.N.B., stated:

"This situation seems to go against the principle of independence and autonomy of the commissions. One must understand that the secretary is often the only permanent employee of the Commission; he has an extensive knowledge of the laws, regulations and orders, procedures and policy; generally, he takes part in the meetings with members, but does not vote. Still, his influence must be felt. Holding an essential office, the secretary can orient the policies of the Commission as well as the department itself, especially when he is part of it. We are not so bold as to argue that the secretaries of Commissions use their position within the Department to influence the decisions of the Commissions, but we believe that the latter's independence would be better protected if the secretary were not associated with the department. The latter would retain the control it needs over the general policies of the agency, through the usual processes of regulations and guidelines. If the financial

aspect represents a constraint to this solution, there is nothing to prevent commissions with a similar purpose from sharing a secretariat. This solution has been adopted by several local marketing boards. We recommend that:

The secretariat of the Commissions
be dissociated from the Department.

Further, it should be noted that the Director of the Market Organization and Inspection branch, who also acts as secretary of the Farm Products Marketing Commission, reports to two supervisors; namely, a Departmental Superior and the chairman of the Farm Products Marketing Commission. Since there is a full time Chairman of the Farm Products Marketing Commission, it would be more appropriate if the Director reported only to the Farm Products Marketing Commission Chairman."

7.4 Conclusions

1. The Minister's role has been one of developing policies and plans in co-operation with producers, processors, dealers, shippers, etc., and recommending them for approval by the Lieutenant-Governor in Council under the following Acts: the Dairy Products Act, Farm Products Marketing Act, Grains Act and the New Brunswick Crop Insurance Act.
2. The Department of Agriculture has provided all budget and staff resources required by the agricultural commissions.
3. Although the Agricultural Commissions report directly to the Minister of Agriculture and meet as separate entities to make decisions as required by the Legislation, the actual implementation of these decisions is a responsibility of the staff of the Market Organization and Inspection Branch of the Department.

7.5 RECOMMENDATIONS

1. It is recommended that the budget for the Farm Products Marketing Commission be provided directly rather than through a line branch of the Department of Agriculture, as is the case at present.

APPENDIX I

List of Individual Reports and Background Papers

- REVIEW OF MARKETING BOARDS IN NEW BRUNSWICK - M. M. Roytenberg
- REVIEW OF AGRICULTURAL COMMISSIONS IN
NEW BRUNSWICK - D. J. Bettson
- FARM PRODUCTS MARKETING AGENCIES IN
NEW BRUNSWICK - Dr. E. Mercier
- THE NEW BRUNSWICK CROP INSURANCE COMMISSION - E. A. Grant
- ADMINISTRATION AND MANAGEMENT STUDY OF THE
MARKETING BOARDS WITHIN THE COMMISSIONS'S
JURISDICTION - Art Maybee
- THE EXPANDED ROLE OF THE FARM PRODUCTS
MARKETING COMMISSION - Wayne Buffett
- THE ROLE AND RESPONSIBILITIES OF THE
MINISTER OF AGRICULTURE AND THE
DEPARTMENT OF AGRICULTURE - H. R. Scovill
- NATIONAL SUPPLY MANAGEMENT PLANS - H. R. Scovill
- DRAFT LEGISLATION - B. R. Bartlett

APPENDIX II

List of Organizations and Individuals Submitting
Reports/Briefs or Who Were Interviewed

Special Consultants

Mr. Denis J. Bettson, Agricultural Consultant, Fredericton
Mr. M. M. Roytenberg, President, Roygold Marketing Systems, Ottawa

Consultants

Dr. Ernest Mercier, Agricultural Consultant, Quebec
Mr. Bernard Bartlett, Agricultural Consultant, Fredericton
Mr. E. A. Grant, Agricultural Consultant, Fredericton
Mr. Art Maybee, Management Consultant, Department of Treasury Board
Fredericton
Mr. Douglas C. Stanley, Legal Counsel, Fredericton

Business (Companies, Co-Ops, Dairies)

Co-op Atlantic, Moncton
Atlantic Wholesalers, Sackville
Dominion Stores Ltd., Saint John
Sobeys Ltd., Moncton
Perfection Foods Limited, Charlottetown
Baxter Dairies Limited, Saint John
Brookfield Food Ltd., Amherst
McKay Dairy Ltd., Moncton
Co-op Bas St. Laurent, Edmundston
Inter City Dairy Co. Ltd., Dalhousie
Northumberland Co-op Ltd., Newcastle
G. E. Barbour Co., Sussex

New Brunswick Marketing Boards, Agencies, Commissions, Federations

N. B. Apple Marketing Board, Fredericton
 N. B. Chicken Marketing Board, Fredericton
 N. B. Egg Marketing Board, Fredericton
 N. B. Hog Marketing Board, Moncton
 N. B. Milk Marketing Board, Sussex
 N. B. Turkey Marketing Board, Fredericton
 N. B. Cram Marketing Board, Sussex
 N. B. Potato Agency, Florenceville
 N. B. Cattle Marketing Agency, Fredericton
 N. B. Federation of Agriculture, Fredericton
 N. B. Dairy Products Commission, Fredericton
 N. B. Grain Commission, Fredericton
 N. B. Crop Insurance Commission, Fredericton

PROVINCIAL GOVERNMENT DEPARTMENTS, BOARDS AND COUNCILS

British Columbia

S. B. Peterson - Former Deputy Minister of Agriculture

Alberta

Agricultural Products Marketing Council
 H. Buckley, Chairman, Agricultural Products Marketing Council
 T. Sydnese, General Manager, Agricultural Products Marketing Council
 T. Scott, Secretary, Agricultural Products Marketing Council

Saskatchewan

Doug Maley, Secretary, Saskatchewan Natural Products Marketing Council
 J. Fraese, Administrative Officer, Milk Control Board, Saskatchewan

Manitoba

Dr. A. W. Wood, Chairman, Manitoba Natural Products Marketing
 Council

Ontario

Farm Products Marketing Board, Ontario

Johyn C. McMurphy, Chairman, Farm Products Marketing Board and
Chairman, Milk Commission of Ontario

Mr. Duncan Campbell, former Deputy Minister of Department of
Agriculture

Quebec

Mr. Benoit Lavigne, President, Regie des marches agricoles du Quebec
Gilles Pregent, Vice-president, Regie des marches agricoles du Quebec
Mr. Ferdinand Ouellet, Sous-ministre, Ministere de l'agriculture,
des pecheries et de l'alimentation

Prince Edward Island

P.E.I. Marketing Council

Mr. Joseph Gaudin, Chairman, P.E.I. Marketing Council

Mr. Paul Jelly, Manager, P.E.I. Marketing Council

Nova Scotia

Mr. Ralph Morehouse, Secretary, Natural Products Marketing Council

Mr. Walter Grant, Deputy Minister of Agriculture and Marketing

Newfoundland

Mr. Art Jackman, Chairman, Agriculture Products Marketing Board

Mr. G. J. O'Reilly, former Deputy Minister of Agriculture,
Newfoundland

National Agencies

National Farm Products Marketing Council, Ottawa

Ms. June Menzies, Chair, National Farm Products Marketing Council,
Ottawa

Mr. Gilles Choquette, Chairman, Canadian Dairy Commission, Ottawa

Staff Support (Part-time)

H. Raymond Scovil, Chairman, N.B. Farm Products Marketing Commission

Wayne Buffett, Secretary, N.B. Farm Products Marketing Commission

Dino Kubik, Commodity Analyst, Department of Agriculture and Rural
Development

Douglas Wright, Solicitor, N.B. Department of Justice

Judy Haines, Secretary, N.B. Farm Products Marketing Commission